

STATE OF MICHIGAN
COURT OF APPEALS

In re CAGE, Minors.

UNPUBLISHED
December 22, 2020

No. 353851
Wayne Circuit Court
Family Division
LC No. 19-001268-NA

Before: SWARTZLE, P.J., and BECKERING and GLEICHER, JJ.

PER CURIAM.

In this child protective proceeding, respondent appeals as of right the trial court's order terminating his parental rights under MCL 712A.19b(3)(j) (reasonable likelihood child will be harmed if returned to parent's home) to LNC and ERC. We affirm.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Respondent and the non-respondent Mother¹ are the parents of two minor children, LNC and ERC. The events leading to the termination of respondent's parental rights began on June 8, 2019, when Mother picked up respondent and took him to a restaurant with the children. At the time, Mother and respondent were not living together but they shared joint custody of the children.

While at the restaurant, respondent became angry at Mother because he believed she was disrespecting him. As they left, and although they had arrived in Mother's car, respondent insisted on driving. He grabbed the keys from Mother's hand, cutting her hand in the process. The family returned to Mother's house, and Mother agreed to let respondent stay the night.

The argument between respondent and Mother continued the next morning. Respondent was again angry with Mother, and with the children present, he pushed her to the ground and

¹ No allegations of abuse or neglect were made as to Mother, and the children remain in her custody.

choked her until she lost consciousness. Mother awoke to find respondent lying next to her, whispering in her ear that she wanted it to happen.

Respondent then forced Mother (pulling her by the hair and placing her arm behind her back) and the children into a windowless bathroom and shut the door. While in the bathroom, respondent began videotaping Mother with his cellular telephone. On the video, respondent is seen hitting Mother in the face. Respondent also forced Mother to state on the video that she was responsible for respondent's violent behavior. Mother testified that respondent beat her, choked her, and bit her multiple times, ripping skin off her back.² The incident in the bathroom lasted approximately one hour, and the children witnessed the entire ordeal from the bathtub, approximately 3 to 4 feet away from Mother, while they cried.

Once respondent let Mother and the children out of the bathroom, he retrieved a handgun from the kitchen, while holding LNC's hand. With his left hand holding the gun and his right hand holding LNC's hand, respondent pointed the gun to his chin and threatened to kill himself in front of them. Eventually, respondent calmed down enough to turn on the television for the children; he then took Mother into the nearby bedroom and raped her multiple times.

Mother convinced respondent that the children needed to eat, and respondent drove the four of them to a restaurant to pick up food. Respondent kept the gun under his car seat. Mother was able to call and text her mother to seek help, communicating in Spanish to prevent respondent from understanding what she was doing. When the family returned to Mother's home, police were waiting outside. Respondent drove the car away from the scene and avoided police for four to five hours. Mother was able to make contact with police officers via text, ultimately leading to an end of the two-day ordeal.

Petitioner filed a petition with the trial court to terminate respondent's parental rights with respect to LNC and ERC. Petitioner alleged it was contrary to the children's welfare to remain in the care and custody of respondent due to the events that occurred on June 8 and 9, 2019.

The petition identified two prior domestic violence convictions against respondent, one of which entailed a 2015 incident while Mother was pregnant with ERC. Respondent bound Mother's arms and legs and locked her in a closet for approximately a half hour. Petitioner became involved after this episode and offered respondent services, including anger management therapy, but the services were not completed. Respondent was criminally convicted and incarcerated as a result of that incident.

At an adjudication trial, the jury found that the children "are subject to a substantial risk of harm to their mental well-being" in respondent's presence, and the trial court took jurisdiction over the children. The trial court held a dispositional hearing and found there was a statutory basis for

² As a result of respondent's abuse, Mother was left with bruises on her face, neck, ears, back, elbow, and knee, bite marks, skin ripped off her back, a cut finger, and a lacerated tongue caused when respondent choked her and she bit her tongue.

termination under MCL 712A.19b(3)(j), and that termination was in the children’s best interests. This appeal followed.

II. ADMISSION OF EVIDENCE

Respondent’s first argument on appeal concerns the admission of certain testimony during the adjudication trial. Respondent contends that Mother’s testimony regarding her view on domestic violence, her opinion on whether respondent suffers from mental illness, and petitioner’s testimony that the children were in trauma counseling, were irrelevant and should not have been admitted. We disagree.

A. STANDARDS OF REVIEW

“This Court reviews the trial court’s decision to admit or exclude evidence for an abuse of discretion.” *In re Archer*, 277 Mich App 71, 77; 744 NW2d 1 (2007). “An abuse of discretion occurs when the trial court chooses an outcome that falls outside the range of principled outcomes.” *In re Jones*, 286 Mich App 126, 130; 777 NW2d 728 (2009) (quotation marks and citations omitted).

Unpreserved issues are reviewed for “plain error affecting substantial rights.” *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).³ To avoid forfeiture under the plain error rule, a respondent must establish three things: 1) error occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected respondent’s substantial rights. *In re VanDalen*, 293 Mich App 120, 135; 809 NW2d 412 (2011). “[A]n error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings.” *In re Utrera*, 281 Mich App at 9.

B. ANALYSIS

As a preliminary matter, respondent asserts he preserved the argument on appeal that the trial court abused its discretion when it permitted Mother to testify regarding domestic violence because his attorney objected to the statement. Respondent’s counsel did object in the middle of a statement Mother was making, as she said “I was willing to accept being mistreated and I know that I am not alone and I know that there is a lot of us who stays in a relationship because we have convinced ourselves that being disrespected--” The specific objection was “[a]s to her statement about a lot of us” Respondent’s attorney did not make any further argument regarding the objection, which appears to be based on Mother’s lack of foundation to testify regarding what other women in abusive relationships do or believe. Respondent now attacks the substance of Mother’s later completed statement as being irrelevant and without a basis in fact. Because this is a different objection to the testimony than what was offered in the trial court, respondent has not preserved the argument on appeal. *In re Weiss*, 224 Mich App 37, 39; 568 NW2d 336 (1997) (To preserve the issue of admissibility of evidence on appeal, “[the] party opposing the admission of evidence must timely object at trial and specify the same ground for objection that it asserts on appeal.”). Respondent’s counsel did not object to Mother’s testimony regarding her assessment

³ “Generally speaking, in termination proceedings, we review unpreserved claims under the plain-error rule.” *In re Beers*, 325 Mich App 653, 677; 926 NW2d 832, 845 (2018).

of respondent's mental health, or petitioner's testimony regarding the children being in trauma counseling.

For respondent to show he is entitled to relief for any of these alleged errors, he must establish that the trial court erred, the error was obvious, and the error changed the outcome of the case. *In re VanDalen*, 293 Mich App at 135. We conclude that the evidence at issue was relevant, and that even if any of the testimony was admitted in error, the outcome of the trial would not have been different.

Respondent's argument with respect to each of the three disputed pieces of testimony is based on relevance. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." MRE 401.

Mother testified to her opinion about whether respondent suffers from mental health issues in response to a question submitted by the jury. While Mother did state respondent suffered from "mental illness," she was not asked to give a diagnosis, but rather, to give her observations of his behavior:

He just have these blackouts where he is mentally ill to where he puts his hands on me just randomly. When he gets mad, he hits me. If there is an argument, he hits me. And if nothing goes his way, it is no one's way.

This testimony was relevant in that it further informed the jury regarding the environment the children were in and would continue to be in if respondent were permitted to parent the children. It was not, therefore, error, let alone plain error, for the trial court to permit the testimony.

Similarly, petitioner's testimony regarding the trauma counseling the children were attending was relevant to the impact that respondent currently had on their mental well-being. In response to a question regarding the status of the children, petitioner's employee stated:

[The children] are in therapy, trauma-based therapy, and they had a trauma assessment. There is another worker who does—It's called Ongoing, basically we have the case opened and we monitor the kids to continuously make sure that they are safe while we are doing court or just in general until that worker is the one who would do the extra things that they need like the therapy or what not if something else arises.

This testimony, while devoid of any details regarding any diagnosis as to the level of trauma the children suffered, informed the jury that the children were being counseled as a result of what they witnessed on June 8 and 9, 2019. This fact was, therefore, relevant to the issue of whether the children's mental well-being would be harmed if they were to be returned to respondent's care.

Respondent's third point of error, concerning Mother's statement about domestic violence, was also relevant. On numerous occasions, petitioner asked Mother why she did not leave or try to escape the violence that respondent inflicted on her. Mother was apparently trying to contextualize why abused women have difficulty leaving an abusive relationship due to the

coercive control abusive spouses and partners have over them. This testimony was relevant to show the further risk to the children if respondent were allowed to continue parenting them because it demonstrates that regardless of the level of violence suffered by Mother, she faced various barriers in removing herself—and the children—from exposure to a volatile relationship.

Even if each of the disputed pieces of testimony were irrelevant or otherwise objectionable, however, respondent cannot show that admission of the testimony changed the outcome of the trial. The jury heard detailed testimony and saw photographic and video documentation of respondent's abusive behavior toward Mother that occurred in the presence of the children.

As noted, Mother testified that on the morning of June 9, 2019, and in the presence of the children, respondent threw Mother to the ground, got on top of her, and choked her until she passed out. Respondent then pulled Mother by the hair and forced her into the bathroom, along with the children, for approximately one hour, while respondent continued to physically abuse Mother in the children's presence. Once respondent let the three out of the bathroom, he obtained his gun from the kitchen, held it to his head, and threatened to kill himself while holding one child's hand. He then put on a television show for the children and raped Mother in a nearby bedroom. He later held Mother and the children hostage in a car for four to five hours while trying to elude the police.

Even without the testimony respondent now objects to, the jury would likely have found the facts necessary for the trial court to take jurisdiction over the children because of respondent's obvious threat to their mental well-being by subjecting them to a front row seat to a disturbing level of physical violence inflicted upon their mother. Accordingly, respondent cannot demonstrate plain error affecting his substantial rights regarding the admission of the testimony.

III. MISTRIAL

Respondent's second argument on appeal concerns his attempt to have the trial court declare a mistrial on the basis of his assertion that he heard sheriff's deputies remark about his being incarcerated within earshot of the jury. The trial court denied the motion, a decision which we affirm.

A. STANDARD OF REVIEW

We review for an abuse of discretion a trial court's decision to grant or deny a motion for mistrial. *In re Dearmon*, 303 Mich App 684, 695; 847 NW2d 514 (2014). "An abuse of discretion occurs when the trial court chooses an outcome that falls outside the range of principled outcomes." *In re Jones*, 286 Mich App at 130 (quotation marks and citations omitted).

B. ANALYSIS

Respondent asserts the trial court abused its discretion when it denied his motion for mistrial because the trial court did not investigate whether the allegation was true that sheriff's deputies remarked about respondent's incarcerated status within earshot of the jury. Assuming respondent's allegation is true (a point which the record does not answer), respondent fails to provide this Court with his legal basis for making the assertion that he was entitled to a mistrial. In other words, respondent does not explain why the jury hearing such evidence would support a

mistrial. Similarly, respondent offers no legal basis for the argument that the trial court's failure to further investigate the allegation constitutes an abuse of discretion. This Court has repeatedly stated that "[a] party may not leave it to this Court to search for authority to sustain or reject its position." *In re Smith*, 324 Mich App 28, 45; 919 NW2d 427 (2018) (quotation marks and citation omitted) (alteration in original).

Even if respondent had not abandoned the issue by failing to cite any authority for his proposition, the argument lacks merit. "A mistrial should be granted only for an irregularity that is prejudicial to the rights of the defendant . . . impairs his ability to get a fair trial." *People v Alter*, 255 Mich App 194, 205; 659 NW2d 667 (2003) (quotation marks and citation omitted). "[T]he moving party must establish that the error complained of is so egregious that the prejudicial effect can be removed in no other way." *People v Dickenson*, 321 Mich App 1, 18; 909 NW2d 24 (2017) (quotation marks and citation omitted). Here, the jury had already learned through the course of the trial that respondent had previously been incarcerated for the domestic violence incident that took place in 2015, and as the trial court noted, the petition indicated that criminal charges had been filed against respondent for the 2019 incident, an event which respondent videotaped in part, so learning of his incarceration on charges stemming from the event would not likely have a material impact beyond the evidence admitted at trial.

Respondent is also incorrect that the trial court conducted no investigation. In response to respondent's allegation, the trial court inquired whether the court's deputy had any knowledge of the accusation, to which the deputy responded in the negative. Moreover, as the trial court noted, the jury was secluded in a closed room and, therefore, was unlikely to be able to hear any statement made by sheriff's deputies.

In addition, the trial court instructed the jury to disregard any information they may hear outside of the courtroom. The law presumes that jurors follow the trial court's instructions and that such instructions cure most errors. *People v Mahone*, 294 Mich App 208, 212; 816 NW2d 436 (2011); *Zaremba Equip Inc v Harco Nat'l Ins Co*, 302 Mich App 7, 25; 837 NW2d 686 (2013). Thus, absent evidence to the contrary, there is a presumption the jury did not consider any potentially overheard statement by sheriff's deputies.

IV. JURISDICTION

Respondent also asserts the jury was not presented with sufficient evidence for which it could find by a preponderance that the trial court could assume jurisdiction of the children. We disagree.

A. STANDARD OF REVIEW

This Court "review[s] the trial court's decision to exercise jurisdiction for clear error in light of the court's findings of fact." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). "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 [fact finder's] special opportunity to observe the witnesses." *Id.* at 296-297.

B. ANALYSIS

“The question at adjudication is whether the trial court can exercise jurisdiction over the child (and the respondents-parents) under MCL 712A.2(b) so that it can enter dispositional orders, including an order terminating parental rights.” *In re Ferranti*, 504 Mich 1, 15; 934 NW2d 610 (2019). “The court can exercise jurisdiction if . . . the [petitioner] proves the allegations at a trial” *Id.*, citing MCR 3.972. “If a trial is held, the respondent is entitled to a jury, the rules of evidence generally apply, and the petitioner has the burden of proving by a preponderance of the evidence one or more of the statutory grounds for jurisdiction alleged in the petition.” *In re Sanders*, 495 Mich 394, 405; 852 NW2d 524 (2014). See also MCR 3.972(C)(1); MCR 3.972(E).

The jury found sufficient evidence to establish the factual basis for the trial court to assume jurisdiction of the children under MCL 712A.2(b)(1), which provides there is jurisdiction over children:

[w]hose 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

Respondent asserts the evidence was insufficient for the jury to find establishment of a factual basis by a preponderance of the evidence because the evidence was generally focused on respondent’s behavior toward the children’s mother, not on whether respondent neglected or abused his children, and there was only speculation that the children’s mental well-being was in jeopardy other than the petitioner’s testimony, which we have already concluded was relevant and admissible.

Respondent is correct that there was no evidence presented to the jury that respondent physically abused the children. This argument, however, is a red herring because the jury did not make its finding based on their physical abuse. Rather, the jury found sufficient evidence of the establishment of a factual basis because of the threat to the children’s mental well-being caused by respondent’s physical abuse of their mother in their presence. And there was ample evidence presented to the jury, as described above, that respondent’s behavior toward Mother in their presence would harm the children’s mental well-being. Mother testified that the children witnessed the attack and were afraid. She recalled that LNC told respondent to get off of her when she was being choked into unconsciousness, and they cried during the bathroom beating. The video that respondent made of the incident depicts some of this physical abuse, and Mother can be seen being hit in the face on the video.

To counter this evidence, respondent asserts that when the children are seen on the video, they do not appear to be terrified. In fact, in one clip of the video, respondent is seen holding LNC’s hand. Respondent also asserts that the jury could only infer the children’s mental well-being was threatened, which the jury was not permitted to do.

The jury heard Mother’s testimony and watched the video, determining what was depicted was sufficiently traumatizing to justify a factual finding to permit the trial court to assume

jurisdiction. Moreover, Mother testified that while respondent and LNC were holding hands, respondent was the one holding LNC's hand, and did so to assert control over Mother.

Moreover, respondent is incorrect in his contention that the jury could not make inferences from the evidence to find the existence of the necessary factual basis for the trial court to assume jurisdiction. Jurors are allowed to make inferences based on circumstantial evidence. See *People v Oros*, 502 Mich 229, 241-242; 917 NW2d 559 (2018) (“The jury is permitted to infer from one fact the existence of another essential to guilt, if reason and experience support the inference”) (quotation marks and citation omitted); *Woodard v Custer*, 473 Mich 1, 7; 702 NW2d 522 (2005) (“[A] jury is permitted to infer negligence from a result which they conclude would not have been reached unless someone was negligent”) (quotation marks and citation omitted). It did not constitute an impermissible inferential leap for the jury, after viewing and hearing the evidence of respondent's current and historical abuse and violence in the presence of the children, to determine the children's mental health and well-being was endangered. This evidence was amply sufficient and supported the trial court's assumption of jurisdiction.

V. STATUTORY BASIS TO TERMINATE

Respondent's fourth argument on appeal challenges the trial court's finding that there was a statutory basis under MCL 712A.19(3)(j) to terminate respondent's parental rights. He asserts the trial court did not properly weigh all of the evidence. We disagree.

A. STANDARD OF REVIEW

We review for clear error a trial court's finding that a ground for termination of parental rights has been proved by clear and convincing evidence. *In re Pops*, 315 Mich App 590, 593; 890 NW2d 902 (2016). “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 BZ*, 264 Mich App at 296-297.

B. ANALYSIS

The trial court found that the children were reasonably likely to be harmed if respondent were allowed to continue to exercise his parental rights to the children. While the trial court acknowledged there was no evidence respondent physically abused the children, given the level of violence demonstrated by respondent's behavior, it was too great a risk to subject the children to him. Respondent, on the other hand, asserts the lack of physical abuse toward the children is dispositive and required the trial court to conclude there was no statutory basis to terminate respondent's parental rights.

“[A] court may terminate parental rights if it finds by clear and convincing evidence that there ‘is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.’ ” *In re Pops*, 315 Mich App at 599, quoting MCL 712A.19b(3)(j). “ ‘If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification

of the child with the parent not be made.’ ” *In re VanDalen*, 293 Mich App at 139, quoting MCL 712A.19b(5).

Respondent is correct that there was no evidence he ever physically abused the children. This argument, however, fails for two reasons.

First, MCL 712A.19b(3)(j) does not require the trial court to find the children will likely be *physically* harmed if they are returned to respondent’s care. Instead, the statute requires the trial court find, by clear and convincing evidence, that the children are likely to be harmed, which implies any type of harm, be it physical or mental harm. This makes sense when considering that the Legislature explicitly made a basis for taking jurisdiction the threat that a parent’s behavior would pose a risk to a child’s mental well-being. See MCL 712A.2(b)(1). “This Court reads the statute as a whole and generally reads statutes covering the same subject matter together.” *In re Miller*, 322 Mich App 497, 501; 912 NW2d 872 (2018). In other words, it would make little sense for the Legislature to permit a trial court to take jurisdiction of children on the basis of a threat to their mental well-being if the trial court were not permitted to terminate a parent’s rights to the children for the same reason. See *In re AJR*, 300 Mich App 597, 600; 834 NW2d 904 (2013), *aff’d* 496 Mich 346 (2014) (This Court “presume[s] that every word of a statute has some meaning and must avoid any interpretation that would render any part of a statute surplusage or nugatory. As far as possible, effect should be given to every sentence, phrase, clause, and word.”) (quotation marks and citation omitted).

Second, even if the trial court were not permitted to find a statutory basis to terminate respondent’s parental rights on the threat of harm to the children’s mental well-being, the evidence presented to the trial court justified a finding the children would be reasonably likely to be physically harmed if they were to remain in respondent’s custody. Respondent, at one point during the June 9, 2019 incident, threatened to shoot himself in the head while holding a gun in one hand and his child’s hand in the other. While respondent did not actually carry out that threat, he demonstrated he was capable of extreme violence. The fact that respondent had no reservations about subjecting Mother to such abuse in front of the children, forcing them to watch from the bathtub mere feet away, supports the conclusion that respondent is capable of inflicting such abuse on the children or otherwise putting them in harm’s way of his violent proclivities. Mother also testified that respondent beat her while she was pregnant with each child. Respondent’s violent behavior toward Mother put the children at risk of physical harm. The trial court did not, therefore, clearly err when it found a statutory basis under MCL 712A.19b(3)(j).

VI. BEST INTERESTS OF THE CHILDREN

Respondent claims the trial court clearly erred when it concluded termination of respondent’s parental rights was in the children’s best interests; respondent alleges the trial court failed to account for the bond he has with his children. We find this argument to be without merit.

A. STANDARD OF REVIEW

This Court reviews for clear error the trial court’s finding that termination of parental rights is in the child’s best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). “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 BZ*, 264 Mich App at 296-297.

B. ANALYSIS

To terminate a parent's parental rights, the trial court must "find[] by a preponderance of the evidence that termination is in the best interests of the children." *In re Gonzales/Martinez*, 310 Mich App 426, 434; 871 NW2d 868 (2015). All available evidence should be weighed by the trial court, which may include factors such as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re White*, 303 Mich App at 713, quoting *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 114 (2012). In addition, "[t]he trial court may also consider a parent's history of domestic violence" *In re White*, 303 Mich App at 714.

Respondent relies heavily on the testimony of his expert witness. While the expert testified that children often suffer long-term emotional grief when they lose a parent, she could not testify to any specifics between respondent and the children because she had never met either respondent or the children. Thus, when directly asked, she could not give an opinion regarding the strength of the bond between them. Similarly, respondent's expert was unable to provide an opinion on whether counseling or other services would help respondent. The only opinion she could give was that respondent and LNC appeared to have a relationship because LNC was holding respondent's hand in the video. Respondent's current fiancé, who also testified on his behalf, is equally unhelpful to respondent. While she testified that respondent loved his children, she admitted she would not want her own children to experience what LNC and ERC experienced in the video.

In contrast, petitioner presented the trial court with evidence of respondent's violent behavior and willingness to exhibit that behavior in front of his children. This evidence included choking, biting, and hitting Mother, purposefully in front of the children, raping her while they were in the next room, and threatening to kill himself with a gun in their presence. Thus, the evidence demonstrated respondent is willing to be violent toward those with whom he has a relationship and to place his children in harm's way while inflicting violence on someone they love. The trial court was entitled to weigh this evidence against the minimal evidence of the bond respondent shared with his children and determine whether it was in the children's best interests to terminate respondent's parental rights. The trial court did not clearly err.

VII. CONSTITUTIONAL ARGUMENT

Finally, respondent contends that his constitutional rights were violated because the deprivation of his parental rights was arbitrary and oppressive. We disagree.

A. STANDARD OF REVIEW

"Whether proceedings complied with a party's right to due process presents a question of constitutional law that we review de novo." *In re Rood*, 483 Mich 73, 91; 763 NW2d 587 (2009). Unpreserved issues are reviewed for "plain error affecting substantial rights." *In re Utrera*, 281 Mich App at 8.

B. ANALYSIS

“A natural parent has a fundamental liberty interest in the care, custody, and management of his child that is protected by the Fourteenth Amendment of the United States Constitution and by article 1, § 17, of the Michigan Constitution.” *In re Rood*, 483 Mich at 91 (quotation marks and citations omitted). “In acknowledgment of this interest, the statutory-grounds stage, which focuses on the liberty interest of the parent, uses error-reducing procedures, such as the heightened standard of proof of clear and convincing evidence to prevent the erroneous determination that a fit parent is unfit.” *In re Gach*, 315 Mich App 83, 99; 889 NW2d 707 (2016) (quotation marks and citation omitted). “This is because, at this stage of the proceeding, in addition to the parent’s liberty interest, the child and parent both share a vital interest in preventing erroneous termination of their natural relationship until the petitioner proves parental unfitness.” *Id.* (quotation marks and citation omitted).

Respondent asserts that his constitutional rights were violated because the trial court clearly erred when it concluded there was a statutory basis to terminate his rights. Respondent failed to make this argument in the trial court and has, therefore, failed to preserve this issue on appeal. *In re Killich*, 319 Mich App 331, 336; 900 NW2d 692 (2017) (“To preserve an issue for appellate review, the issue must be raised before, addressed by, and decided by the lower court.”). For the reasons set forth above, we find no error, let alone plain error, with the trial court’s finding of a statutory basis to terminate respondent’s parental rights. In other words, because clear and convincing evidence was adduced to support the trial court’s termination of respondent’s parental rights, there was not a deprivation of respondent’s right to due process.

VIII. CONCLUSION

We conclude that the trial court did not err in admitting the evidence about which respondent complains with respect to his adjudication trial, respondent was not denied a fair trial, and the trial court did not err in denying respondent’s motion for a mistrial. Moreover, sufficient evidence supported the jury’s factual findings that warranted the trial court taking jurisdiction over the children. Further, the trial court did not clearly err in finding a statutory ground for termination and that termination was in the children’s best interests. And finally, respondent was not deprived of his constitutional rights.

Affirmed.

/s/ Brock A. Swartzle
/s/ Jane M. Beckering
/s/ Elizabeth L. Gleicher