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STATE OF MICHIGAN

COURT OF APPEALS

In re HUDSON, Minors.

UNPUBLISHED
July 22, 2021

Nos. 354381; 355855; 356057
Lenawee Circuit Court
Family Division
LC No. 16-000729-NA

Before: TUKEL, P.J., and SAWYER and CAMERON, JJ.

PER CURIAM.

In these consolidated appeals,[1] in Docket No. 354381, respondent-father appeals as of right the trial court's order establishing jurisdiction over respondent-father with respect to two of his minor children, SH and TH. In Docket No. 355855, respondent-father appeals as of right the trial court's order establishing a juvenile guardianship over his three minor children—SH, TH, and JH. In Docket No. 356057, respondent-mother also appeals as of right the same order of the trial court establishing a juvenile guardianship for SH, TH, and JH. We affirm.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

This case began in August 2016, when respondent-mother was found unconscious in her home after overdosing on an array of illegal drugs, including marijuana, cocaine, and opioids. SH and TH, both of whom were under two years old at the time, were home when respondent-mother overdosed. Respondent-mother was taken to the hospital where she spent several days in the intensive care unit. In lieu of having an adjudication trial, respondent-mother pleaded facts to support jurisdiction, which included that the minor children were at risk of having access to harmful drug paraphernalia, and "at risk of exposure to a violent and unsafe home environment in which" illegal drugs were consumed. As part of respondent-mother's parent-agency agreement (PAA), she was required to avoid using any illegal or nonprescribed substances.

[1] *In re Hudson*, unpublished order of the Court of Appeals, entered April 13, 2021 (Docket Nos. 354381, 355855, and 356057).

Over the course of the next year, respondent-mother struggled with using marijuana and cocaine and repeatedly tested positive for both drugs. Respondent-mother's positive drug screens continued to occur, even after she was held in contempt of court for using drugs and ordered to attend a 90-day inpatient rehabilitation program. Respondent-mother was eventually medically discharged from that program because of her high-risk pregnancy with JH, and almost immediately began using cocaine and marijuana again. Indeed, when respondent-mother gave birth to JH in October 2017, JH was removed from her care because of the consistent use of marijuana and cocaine, even while pregnant.

The trial court held respondent-mother in contempt of court again and sentenced her to serve 30 days in jail in November 2017. Although the contempt order noted that respondent-mother could leave jail early if she agreed to spend the remainder of her time in an inpatient rehabilitation facility, respondent-mother decided to stay in jail. At that time, the case was progressing toward an adjudication trial for both respondent-mother and respondent-father as related to JH. Before that trial could occur, however, respondent-father was taken to jail on federal charges of being a felon in possession of a firearm and violating his bond. The adjudication trial related to JH occurred in March 2018, and the trial court found that a preponderance of the evidence supported jurisdiction for both respondent-parents. Respondent-father was provided with a PAA, and respondent-mother was directed to continue her attempts to comply with her own.

Throughout the next two years, respondent-father and respondent-mother minimally complied with their PAAs. Respondent-father, who was eventually moved to a federal prison, had limited services available to him, but was employed in the prison kitchen and completed and returned parenting worksheets sent to him by Hands Across the Water (HATW), the foster care agency assigned to the case by petitioner. Respondent-father only intermittently wrote letters to JH and refused to timely sign releases of information so that Meretta Dickinson, his HATW caseworker, could access his prison records and set up a psychological evaluation. Respondent-mother, on the other hand, participated in parenting-time sessions and was employed, but still exhibited issues with drugs. In April and May 2019, respondent-mother again tested positive for cocaine, which was in addition to numerous positive screens for marijuana. Respondent-mother was also highly irregular in her attendance at random drug screens, providing excuses including from being too busy or not having transportation. Despite setting up a more convenient drug testing scheme, which involved HATW caseworkers coming to respondent-mother, she continued to miss many random drug screens.

In November 2019, petitioner filed an amended supplemental petition for permanent custody of SH, TH, and JH. Considering that respondent-father had yet to be adjudicated with respect to SH and TH, the trial court scheduled and rescheduled the adjudication trial on several occasions. When the trial finally occurred in May 2020, it had to be held remotely because of the COVID-19 pandemic. Respondent-father, who had been released from prison by that time and was living in a halfway house, participated via telephone. Respondent-father objected, on due-process grounds, to the adjudication trial going forward without first securing his presence either in person or by video. The trial court overruled that objection, considered testimony from respondent-father and Dickinson, took judicial notice of the court file as related to respondent-father, and ultimately determined that jurisdiction under MCL 712A.2(b)(1) and (2) was established by a preponderance of the evidence. Respondent-father appealed that decision of the trial court in Docket No. 354381.

About six months later, in November 2020, the trial court considered whether it should order a juvenile guardianship for SH, TH, and JH. Respondent-mother and respondent-father were living together in a three-bedroom home, with four of respondent-father's other children, and no room to house SH, TH, and JH. Further, both parties had unilaterally determined that they would no longer attend random drug screens, alleging that there had been false positives. Respondent-father, in particular, tested positive for cocaine one time in August 2020, and twice for marijuana in that same month. The trial court ultimately determined that SH's, TH's, and JH's best interests favored establishing a juvenile guardianship with the relative caregivers with whom they had been placed for several years. Respondent-father appealed that decision in Docket No. 355855, while respondent-mother did so in Docket No. 356057.

II. RESPONDENT-FATHER'S ADJUDICATION

Respondent-father argues that his adjudication trial violated his due-process rights and did not result in sufficient evidence to establish that jurisdiction was appropriate. We disagree.

A. STANDARD OF REVIEW

"Challenges to the court's decision to exercise jurisdiction are reviewed for clear error in light of the court's finding of fact." *In re Kellogg*, 331 Mich App 249, 253; 952 NW2d 544 (2020) (quotation marks and citation omitted). "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." *Id.* (quotation marks and citation omitted). "We review de novo questions of constitutional law, including whether a child protective proceeding complied with a respondent's right to due process." *In re Yarbrough*, 314 Mich App 111, 121-122; 885 NW2d 878 (2016).

B. DUE PROCESS

Respondent-father first contends that his inability to attend the adjudication trial either in person or by videoconference technology, and not simply by telephone,[2] violated his due-process rights.

1. APPLICABLE LAW

This Court recently restated the law regarding due process in child-protective proceedings:

> "The fundamental requisite of due process of law is the opportunity to be heard. The hearing must be at a meaningful time and in a meaningful manner." *In re Rood*, 483 Mich 73, 92; 763 NW2d 587 (2009) (quotation marks and citations omitted). "Due process requires fundamental fairness, which is determined in a

[2] Respondent's brief suggests that he did have access to Zoom. But the hearing transcript clearly reflects that the hearing was held via Zoom. In fact, at one point, respondent and his attorney were placed in a Zoom breakout room. We do note that it is unclear from the transcript if respondent had both video and audio, or just audio.

> particular situation first by considering any relevant precedents and then by assessing the several interests that are at stake." *Id*. (quotation marks and citations omitted). "In Michigan, procedures to ensure due process to a parent facing removal of his child from the home or termination of his parental rights are set forth by statute, court rule, DH[H]S policies and procedures, and various federal laws . . . ." *Id*. at 93. "[D]ue process is flexible and calls for such procedural protections as the particular situation demands." *In re Brock*, 442 Mich 101, 111; 499 NW2d 752 (1993) (quotation marks and citation omitted; alteration in original). [*In re Sanborn*, ___ Mich App ___, ___; ___ NW2d ___ (2021) (Docket Nos. 354915 and 354916, issued 5/13/2021); slip op at 6-7.]

2. ANALYSIS

The trial court properly determined that respondent-father's participation in the adjudication trial via Zoom was not a violation of his due-process rights.

Respondent-father makes a number of allegations that he suggests affected his right to due process. He first contends that his due-process rights were violated by the trial court's reliance on the amended supplemental petition for permanent custody and termination of his parental rights to establish jurisdiction. That argument, which essentially is that a petition to terminate parental rights cannot also be used to establish jurisdiction, is made on an apparent misunderstanding of the law in Michigan. In a published and binding decision, this Court determined that a petition for immediate termination of parental rights could be used to adjudicate jurisdiction of a parent when "[t]he petition clearly communicated the nature of petitioner's allegations and described in detail the conduct underlying petitioner's request for jurisdiction." *In re Dearmon*, 303 Mich App 684, 694-695; 847 NW2d 514 (2014). The panel in *Dearmon* further clarified that there were no due-process or jurisdictional concerns when the petition for permanent custody was amended to add allegations against the respondent-parent. *Id*. at 695.

In the present case, petitioner filed an amended supplemental petition for permanent custody of SH, TH, and JH. At that point in the case, respondent-father had not been adjudicated with respect to SH and TH. Therefore, on the basis of that most recent petition, the trial court held an adjudication trial regarding respondent-father, SH, and TH. In pertinent part, that petition contained a paragraph stating statutory grounds for jurisdiction, including MCL 712A.2(b)(1) and (2). Later, the petition contained allegations supporting the grounds for jurisdiction. Under the binding precedent stated in *Dearmon*, 303 Mich App at 694-695, there were no due-process or jurisdictional concerns related to the trial court's use of the amended supplemental petition for permanent custody and to terminate respondent-father's parental rights to establish jurisdiction in this case. Consequently, this allegation of error by respondent-father lacks merit. *Id*.

Respondent-father also alleges that his due-process rights were violated by the trial court considering Dickinson's testimony. Respondent-father suggests that Dickinson's testimony should not have been permitted because her testimony "was a confusing combination of facts and inferences, many of which were more relevant to termination than jurisdiction." Once again, respondent-father's argument is premised on an apparent misunderstanding of Michigan law regarding adjudication trials. Specifically, respondent-father suggests that facts relevant to termination of parental rights are not relevant or admissible in an adjudication trial, which is related

to jurisdiction. This Court has held to the contrary in *Dearmon*, 303 Mich App at 697-698, reasoning that evidence is admissible at an adjudication trial so long as it is relevant to an issue related to jurisdiction. Respondent-father has not cited any law, nor does there appear to be any, that suggests a fact that might be *more* relevant to termination would be inadmissible as related to jurisdiction. The simple truth is that Dickinson was the caseworker assigned to the case and testified regarding respondent-father's relationship with SH and TH, his criminal record, and his history in the case as related to JH. Respondent-father does not specifically identify what statements he believes were inadmissible or violative of his due-process rights.[3] The record establishes, however, that Dickinson's testimony was relevant and admissible, and thus, respondent-father's argument lacks merit. *Id.*

Next, respondent-father asserts that his due-process rights were violated because he was not permitted to confer with his attorney. Respondent-father is correct that parents have the right to be represented by an attorney during an adjudication trial. *In re Collier*, 314 Mich App 558, 572; 887 NW2d 431 (2016). However, as the appellant in this case, respondent-father bears "the burden of furnishing the reviewing court with a record to verify the factual basis of any argument upon which reversal was predicated." *People v Elston*, 462 Mich 751, 762; 614 NW2d 595 (2000). Respondent-father fails that test in this case, asserting that he was not permitted to confidentially speak with his attorney while ignoring the record that expressly shows that he had that opportunity and even used it on one occasion. Specifically, as mentioned earlier, respondent-father and his attorney were allowed to use a Zoom breakout room to speak confidentially to one another. The record of the adjudication trial is devoid of any other instance where respondent-father or his attorney requested an opportunity to speak in private and were denied that option. Respondent-father even fails to identify a point in the adjudication trial where he might have wanted to speak with his attorney confidentially but was not permitted to request it. Thus, respondent-father failed to bear his burden to provide a factual record supporting his allegation that he was denied the ability to speak to his attorney confidentially, which is fatal to his argument. *Elston*, 462 Mich at 762.

Respondent-father's final argument is that his due-process rights were violated are related to the remote nature of the hearing. In particular, respondent-father argues that the trial court should have either ensured his physical presence at the trial or ensured that he could participate by

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[3] It is true that, "[i]f a trial is held regarding adjudication . . . the rules of evidence apply . . . ." *In re Mota*, ___ Mich App ___, ___; ___ NW2d ___ (2020) (Docket No. 351830, issued 10/22/2020); slip op at 6. However, respondent-father has only stated that Dickinson's testimony was confusing, but does not identify any specific statements that were confusing, how the rules of evidence would preclude the admission of the purportedly admissible evidence, or how that affected his due-process rights. Consequently, to the extent that respondent-father's assertion is a veiled argument that the trial court violated the rules of evidence in admitting portions of Dickinson's testimony, it has been abandoned and we decline to review it. *In re Rippy*, 330 Mich App 350, 362 n 5; 948 NW2d 131 (2019) ("Insufficiently briefed issues are deemed abandoned on appeal.") (quotation marks and citation omitted). Indeed, even if we wished to review the issue we would be unable to because of respondent-father's utter failure to even identify the allegedly confusing testimony at issue.

video by adjourning the trial. Recall that, "[d]ue process requires fundamental fairness . . . ." *Sanborn*, ___ Mich App at ___; slip op at 6 (quotation marks and citation omitted). It also, however, is "flexible and calls for such procedural protections as the particular situation demands." *Id*. at ___; slip op at 7 (quotation marks and citation omitted). Respondent-father's argument essentially boils down to a statement that his due-process rights could not be served by his appearance via telephone at his adjudication trial. He cites his inability to see the witnesses against him and the inability of the trial court to see him and assess his credibility.

This Court, however, in published and binding opinions, has held that there are circumstances that can affect the requirements of due process. First, in *Sanborn*, ___ Mich App at ___; slip op at 7, this Court recognized that the COVID-19 pandemic, which resulted in certain hearings being held outside the statutorily required windows, could help to partially excuse the potential infringement on due-process rights. Second and more aptly, as related to this case, this Court has held that an incarcerated parent's due-process rights in child protection cases do not necessarily extend to being entitled to physically appear in court. *In re Vazquez*, 199 Mich App 44, 48-49; 501 NW2d 231 (1993), citing MCR 2.004. The *Vazquez* panel reasoned, "[i]n light of present-day telecommunications, other means that fall short of securing the physical presence of a parent are available to ensure that an incarcerated prisoner receives due process at a dispositional hearing." *Vazquez*, 199 Mich App at 48-49. Considering those two cases together, the flexibility in due process becomes clear. Pertinently, due process does not *require* physical presence in court and it can be flexible in light of a pandemic. *Sanborn*, ___ Mich App at ___; slip op at 7; *Vazquez*, 199 Mich App at 48-49.

In the present case, on the day of the relevant adjudication trial, respondent-father was in a halfway house after being released from prison. He was provided the opportunity to appear by videoconference technology or telephonically. There was some dispute from respondent-father, despite disagreement from his own attorney, about whether he was offered the opportunity to come to the courtroom on the day of the adjudication trial. Ultimately, that factual dispute is irrelevant, because respondent-father's adjudication trial met due-process requirements. As noted in *Vazquez*, 199 Mich App at 47-48, when considering the intricacies and flexibility of due process, one primary consideration is whether respondent-father's physical absence from the trial, or his lack of appearance by video, likely resulted in the trial court's inability to accurately decide the issue before it. Indeed, the panel in *Vazquez* relied heavily on the fact that "the risk of an erroneous deprivation [of the parent's rights] was not increased by his absence at the hearing." *Id*. at 48. The same can be said in the present case.

At the time of the adjudication trial at issue, the present case had been open for nearly five years. Although respondent-father's involvement in the case was minimal at the start, he was adjudicated with respect to JH in March 2018. Thus, at the May 2020 adjudication trial related to SH and TH, respondent-father had been subject to the trial court's jurisdiction for over two years. Further, from March 2018 to February 2020, respondent-father was in jail or prison. Consequently, during the vast majority of the two years he was subject to the trial court's jurisdiction, respondent-father appeared before the trial court via videoconference technology or telephonically. The trial court, therefore, was not just familiar with respondent-father, but it was abundantly familiar with respondent-father in a remote setting. In other words, the trial court being required to listen to respondent-father's testimony remotely at the adjudication trial was not out of the ordinary. Instead, the trial court was incredibly prepared to consider respondent-father's

testimony and apparent veracity on the basis of his appearance via telephone. After all, the trial court had been doing just that for more than two years.

The primary question to be considered is whether respondent-father was given "the opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Sanborn*, ___ Mich App at ___; slip op at 6, quoting *Rood*, 483 Mich at 92. Considering that question in the light of the circumstances particular to this case, the answer is clear: yes. The trial court was familiar with respondent-father and assessing his credibility while he appeared at hearings remotely. Respondent-father was provided with notice and an opportunity to be heard, either by videoconference or telephonically. Respondent-father chose to appear via telephone, and was represented by an attorney whom he was permitted to speak with, in confidence, whenever he requested the opportunity. There is no allegation from respondent-father that he could not hear the proceedings, that he wanted to talk but could not be heard, or that his attorney erred in some manner. While participating by telephone might not be a "meaningful manner" of participation for some parents in an adjudication trial, there is no evidence on the record to suggest that respondent-father falls under that category. Instead, respondent-father was uniquely positioned to have his appearance by telephone be meaningful for him. When accounting for the COVID-19 pandemic, *Sanborn*, ___ Mich App at ___; slip op at 6-7, and the flexibility and limitations of due process related to physical appearance in court, *Vazquez*, 199 Mich App at 47-48, respondent-father's due-process rights were not violated during the May 2020 adjudication trial. In sum, the trial court recognized that "[d]ue process is flexible," and provided the "procedural protections [that] the particular situation demand[ed]." *Brock*, 442 Mich at 111 (quotation marks and citation omitted).

C. STATUTORY GROUNDS FOR JURISDICTION

Respondent-father next argues that the trial court clearly erred in finding that a preponderance of the evidence supported statutory grounds for establishing jurisdiction.

1. APPLICABLE LAW

"In Michigan, child protective proceedings comprise two phases: the adjudicative phase and the dispositional phase." *In re Sanders*, 495 Mich 394, 404; 852 NW2d 524 (2014). "Generally, a court determines whether it can take jurisdiction over the child in the first place during the adjudicative phase." *Id*. "The court can exercise jurisdiction if a respondent-parent enters a plea of admission or no contest to allegations in the petition, see MCR 3.971, or if the Department proves the allegations at a trial, see MCR 3.972." *In re Ferranti*, 504 Mich 1, 15; 934 NW2d 610 (2019). "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 at 15. "Jurisdiction must be established by a preponderance of the evidence." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). In this case, the following statutory grounds for jurisdiction found in MCL 712A.2(b) were relied upon by petitioner and the trial court:

> 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. . . .

2. ANALYSIS

The trial court did not clearly err in finding facts that sufficiently supported statutory grounds for establishing jurisdiction.

At the beginning of the trial, with express permission from all of the parties, the trial court took judicial notice of the entire court file as it related to respondent-father, which was primarily related to his progress on his PAA with respect to JH. One of respondent-father's failings in that regard was his refusal to take the necessary steps to receive a psychological evaluation, which also affected respondent-father's ability to find an appropriate individual counselor. There was also testimony from Dickinson and respondent-father establishing that respondent-father was living in a halfway house, where children were not permitted to live. Respondent-father had plans to leave the halfway house by late June 2020, but did not have established plans for where he planned to live afterward. Respondent-father suggested that he might live with respondent-mother, which caused concern for Dickinson and the lawyer-guardian ad litem (L-GAL) considering respondent-mother's disregard for her PAA and consistent drug use throughout the case.

Respondent-father testified that he had suggested relatives with whom SH and TH could live while he was unable to have housing for them, either while in prison or in the halfway house. Dickinson, however, testified that respondent-father only suggested two relatives, who either were unfit or uninterested in taking SH and TH into their homes. Instead, it was relatives of respondent-mother who ultimately cared for SH and TH. While respondent-father testified that he approved of that placement, there was no evidence that he suggested it or set it up. Thus, with respect to respondent-father, his only available housing at the time was at the halfway house, where the children were not permitted to live. The only other option he even suggested was respondent-mother's home, which was also inhabited by respondent-mother, who had been determined by the trial court as unfit to care for SH and TH in her home. Respondent-father had also testified that it would be difficult for him to find a place to live when he left the halfway house. In an attempt to explain that, respondent-father stated that he paid a significant amount of money in child support, noting that he had five other children not subject to the present case. Respondent-father was unable to specify how much support was related to each child.

Dickinson also testified that respondent-father did not comply with his PAA as it related to JH. In pertinent part, respondent-father had not participated in his psychological evaluation,

had not enrolled in individual counseling, had not obtained proper housing, was inconsistent in communicating with Dickinson, and had not provided proof of his employment. He also had been required to submit a written description to Dickinson of his plans for his life after being released from prison, but failed to do so. Respondent-father only wrote intermittent letters to JH and often missed telephone calls. While he had been excused for some of them, Dickinson testified that there were unexcused missed calls.

Lastly, Dickinson testified, and the record established, that respondent-father was aware that SH and TH had mental-health issues arising out of their traumatic childhood. After undergoing trauma assessments, recommendations were given to all caregivers for the best way to communicate with SH and TH. During the adjudication trial, respondent-father testified that he was aware of the trauma assessments, but stated that he did not agree with all of it. Later, he testified that he knew how to be a parent and did not need help.

As noted above, the trial court's decision to exercise jurisdiction in this case was correct so long as the trial court did not clearly err in finding facts that supported a statutory ground for jurisdiction by a preponderance of the evidence. *In re Ferranti*, 504 Mich at 15; *In re BZ*, 264 Mich App at 295. The trial court, in the written order of adjudication, relied on MCL 712A.2(b)(1) and (2) to establish jurisdiction. Under the first subsection, jurisdiction was appropriate if SH and TH were "subject to a substantial risk of harm to [their] mental well-being . . . ." MCL 712A.2(b)(1). In reaching its decision, the trial court specifically found that there was concern regarding SH's and TH's mental health and history of trauma. That finding was supported by the lower court record, of which the trial court took judicial notice, and Dickinson's testimony at trial. The trial court also found that respondent-father believed that the children's trauma assessments were at least partially untrue, and that he did not need assistance in parenting children who had lived through traumatic events. That finding by the trial court was supported by respondent-father's testimony, which permitted a clear implication that respondent-father would not take TH's and SH's trauma and mental health seriously. Thus, considering the record and the testimony at trial, the trial court did not clearly err in finding that SH and TH had significant mental-health concerns related to trauma. The trial court also did not clearly err in finding that respondent-father did not have plans to take those issues seriously. Consequently, the trial court's decision that a preponderance of the evidence supported that SH and TH were "subject to a substantial risk of harm to [their] mental well-being" if returned to respondent-father's care was proper and adequately established jurisdiction. MCL 712A.2(b)(1); *In re Ferranti*, 504 Mich at 15; *In re BZ*, 264 Mich App at 295.[4]

In an attempt to escape the record evidence of the proper establishment of jurisdiction, respondent-father makes several unavailing arguments. First, respondent-father contends that the trial court should not have relied on the amended supplemental petition for permanent custody and

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[4] Because only one ground for jurisdiction must be found by a preponderance of the evidence, we need not consider and will not address the other grounds found by the trial court. *In re SLH*, 277 Mich App 662, 669; 747 NW2d 547 (2008) ("In order to find that a child comes within the court's jurisdiction, at least one statutory ground for jurisdiction contained in MCL 712A.2(b) must be proven, either at trial or by plea.").

to terminate his parental rights to establish jurisdiction. Second, he argues that the trial court improperly considered evidence related to termination, which he alleges was in fact not relevant to termination. As discussed earlier in this opinion, respondent-father's contention that the amended supplemental petition did not contain allegations regarding statutory grounds for jurisdiction was entirely without merit. Further, as also discussed, evidence that might also be related to termination of parental rights can be considered in an adjudication trial, so long as it is relevant to the issue of jurisdiction. For those same reasons, there was no error here. Moreover, the evidence cited by respondent-father that was relevant to termination but inadmissible as related to jurisdiction was not related to the statutory grounds for jurisdiction that were just discussed. Specifically, respondent-father challenged assertions related to how long SH and TH had been in foster care, respondent-father's contacts with SH and TH while he was in prison, SH's and TH's relationships with the relative caregivers, and SH's and TH's needs for stability and permanency. To the extent those facts were actually introduced during the trial, it is clear from the above analysis that the trial court relied solely on other evidence to establish jurisdiction in this case. Consequently, there was not possibly a clear error by the trial court in finding facts supporting jurisdiction by a preponderance of the evidence. MCL 712A.2(b)(1); *In re Ferranti*, 504 Mich at 15; *In re BZ*, 264 Mich App at 295.

Respondent-father next contends that the trial court erred by citing and analyzing MCL 712A.19b(3)(g), which is a ground for termination, when considering the issue of jurisdiction. Respondent-father is correct that, during the trial court's oral discussion of its opinion, there seemed to be some confusion regarding the statutory citation. Indeed, the court references a subsection (g), and uses language found in MCL 712A.19b(3)(g). However, in analyzing the issue and as summarized above, the trial court found facts related to the mental well-being of SH and TH, as well as whether they were without proper custody. That analysis, as just established, was related to grounds for jurisdiction under MCL 712A.2(b)(1). Moreover, in the trial court's written order of adjudication, there was a specific citation to the correct statute for establishing jurisdiction. It is well established in Michigan that "a court speaks through its written orders and judgments, not through its oral pronouncements . . . ." *In re KMN*, 309 Mich App 274, 287; 870 NW2d 75 (2015) (quotation marks and citation omitted). Therefore, any confusion caused by the trial court's apparent misstatement at the adjudication trial was cleared up by the written order of adjudication that specifically cited a statutory ground for jurisdiction. *Id*. This argument by respondent-father lacks merit.

Respondent-father also argues that the trial court erred by relying on his failure to participate in a psychological evaluation because, considering the lack of adjudication, he had not been ordered to do so. However, respondent-father ignores that he had been adjudicated and provided a PAA as related to JH, which included the requirement to get a psychological evaluation. Respondent-father also expressly confirmed that he approved of the trial court's decision to take judicial notice of the lower court record as it related to him and JH. Consequently, respondent-father waived any issue related to the trial court's consideration of his failure to participate in a psychological evaluation. *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011) ("Respondent may not assign as error on appeal something that she deemed proper in the lower court because allowing her to do so would permit respondent to harbor error as an appellate parachute."). Even so, there is no caselaw to support that the trial court's consideration of that evidence was improper. Indeed, Michigan caselaw provides that "[h]ow a parent treats one child is certainly probative of how that parent may treat other children," *In re AH*, 245 Mich App 77,

84; 627 NW2d 33 (2001) (quotation marks and citation omitted; alteration in original), and "[a] parent's failure to participate in and benefit from a service plan is evidence that the parent will not be able to provide a child proper care and custody," *In re White*, 303 Mich App 701, 710; 846 NW2d 61 (2014). Considering that caselaw, it was proper to consider that respondent-father's failure to meaningfully participate in his PAA for JH reflected poorly on how he would care for SH and TH. Thus, the trial court did not commit clear error in considering evidence of respondent-father's failure to participate in a psychological evaluation, to the extent that the trial court actually did so.

Next, respondent-father asserts that the trial court improperly considered that he had five other minor children not subject to the present case who also were not living with him. Respondent-father acknowledges, though, that there were no allegations that respondent-father had neglected the children in any manner. Thus, it is unclear what problem respondent-father has with the evidence, other than just a general challenge to the admissibility of evidence related to other children not subject to the case at issue. That argument, however, lacks legal merit. As just discussed, this Court has held that "[h]ow a parent treats one child is certainly probative of how that parent may treat other children." *In re AH*, 245 Mich App at 84 (quotation marks and citation omitted; alteration in original). Consequently, to the extent that respondent-father suggests that a trial court cannot consider a respondent's treatment of a child not subject to the case, he is incorrect and this argument lacks merit. *Id.*

Lastly, respondent-father argues that the trial court relied solely on respondent-father's incarceration to establish jurisdiction. Respondent-father only cites *In re Mason*, 486 Mich 142, 160; 782 NW2d 747 (2010), in which our Supreme Court held that "[t]he mere present inability to personally care for one's children as a result of incarceration does not constitute grounds for termination." Notably, that case applies to termination proceedings, not an adjudication trial. *Id.* Thus, the case does not directly apply to the present case. Respondent-father, however, suggests that it should apply to adjudication proceedings. Even assuming it should, it would presumably follow the jurisdictional exception discussed in MCL 712A.2(b)(1)(C). Under that statute, jurisdiction will not be appropriate for leaving minor children " '[w]ithout proper custody or guardianship,' " when the parent "has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance." *Id.* As established above, respondent-father did not place SH and TH with relative caregivers when he was in prison or at the halfway house. Instead, his suggested placements were either unavailable, unfit, or uninterested. Consequently, respondent-father could not have benefited from the statutory exception to jurisdiction in MCL 712A.2(b)(1)(C), which mirrors the principles established in *Mason*, 486 Mich at 160, as related to termination. Moreover, respondent-father's argument would still fail because the trial court also found jurisdiction because SH and TH were "subject to a substantial risk of harm to [their] mental well-being," if they were to be placed with respondent-father. MCL 712A.2(b)(1). That ground for jurisdiction was related to respondent-father's disregard for SH's and TH's mental-health concerns and issues with trauma. In other words, it was not related to respondent-father's incarceration. Therefore, even if the trial court improperly relied on respondent-father's incarceration in part, the other ground for jurisdiction, which was found on evidence independent from incarceration, was sufficient to satisfy the statute. *In re SLH*, 277 Mich App at 669.

III. JUVENILE GUARDIANSHIP

Respondent-father and respondent-mother both argue that the trial court abused its discretion by forming the juvenile guardianship. We disagree.

A. PRESERVATION AND STANDARD OF REVIEW

"[I]ssues that are raised, addressed, and decided by the trial court are preserved for appeal." *In re TK*, 306 Mich App 698, 703; 859 NW2d 208 (2014). During the hearing regarding appointment of a juvenile guardian for SH, TH, and JH, respondent-father and respondent-mother argued that the trial could should not enter the order establishing a juvenile guardianship because it was not supported by the factual record. The trial court considered the argument and decided against them. Thus, because that issue was "raised, addressed, and decided by the trial court," it is preserved for this Court's review. *Id*. Respondent-father also argues, however, that the trial court was without legal authority to establish the juvenile guardianship because the appeal regarding jurisdiction was pending before this Court. Respondent-father did not raise that issue with the trial court. Consequently, whether the trial court had legal authority to enter the juvenile guardianship is not preserved for our review. *Id*.

In proceedings involving a trial court's decision regarding whether to establish a juvenile guardianship, "[a] trial court's factual findings are reviewed for clear error and its decision to appoint a guardian is reviewed for an abuse of discretion." *Id*. at 709. "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." *Kellogg*, 331 Mich App at 253 (quotation marks and citation omitted). "An abuse of discretion occurs if the decision falls outside the range of principled outcomes." *In re Piland*, ___ Mich App ___, ___; ___ NW2d ___ (2021) (Docket No. 353436, issued 4/21/2021); slip op at 10.

With respect to respondent-father's argument that the trial court lacked legal authority to initiate the juvenile guardianship, "[b]oth this Court and our Supreme Court have applied the plain-error standard set forth in *People v Carines*, 460 Mich 750; 597 NW2d 130 (1999), to unpreserved claims of error arising out of child-protective proceedings." *In re Pederson*, 331 Mich App 445, 463; 951 NW2d 704 (2020), citing *In re Ferranti*, 504 Mich at 29. In order to warrant reversal under that test, "1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) . . . the plain error affected substantial rights . . . [, and 4)] once a defendant satisfies these three requirements, an appellate court must exercise its discretion in deciding whether to reverse." *Pederson*, 331 Mich App at 463, quoting *People v Randolph*, 502 Mich 1, 10; 917 NW2d 249 (2018) (alterations in *Pederson*). "An error has affected a party's substantial rights when there is a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings." *Pederson*, 331 Mich App at 463 (quotation marks and citation omitted).

B. APPLICABLE LAW

"This juvenile guardianship, unlike a typical guardianship, arose during neglect proceedings . . . ." *In re Prepodnik*, ___ Mich App ___, ___; ___ NW2d ___ (2021) (Docket No. 352041, issued 5/13/2021), slip op at 3, citing MCR 3.979(E). "MCL 712A.19a, which pertains to permanency-planning hearings, governs juvenile guardianships created after child protective

proceedings have been initiated and in place for a certain period of time but termination of parental rights has not occurred." *In re Ballard*, 323 Mich App 233, 236; 916 NW2d 841 (2018). Specifically, "MCL 712A.19a(1) mandates that if a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing within 12 months after the child was removed from his or her home." *In re TK*, 306 Mich App at 704. At that hearing, "if the child has been in foster care under the responsibility of the state for 15 of the most recent 22 months, the court shall order the agency to initiate proceedings to terminate parental rights." MCL 712A.19a(8). There are certain enumerated exceptions to that rule, including when the minor children are "being cared for by relatives." MCL 712A.19a(8)(a).

Then, under MCL 712A.19a(9), the trial court must consider a set of options for the minor children:

> If the agency demonstrates under subsection (8) that initiating termination of parental rights to the child is clearly not in the child's best interests, or the court does not order the agency to initiate termination of parental rights to the child under subsection (8), the court shall order 1 or more of the following alternative placement plans:
>
>> (a) If the court determines that other permanent placement is not possible, the child's placement in foster care must continue for a limited period to be stated by the court.
>>
>> (b) If the court determines that it is in the child's best interests based on compelling reasons, the child's placement in foster care may continue on a long-term basis.
>>
>> (c) Subject to subsection (11),[5] if the court determines that it is in the child's best interests, appoint a guardian for the child, which guardianship may continue until the child is emancipated.

The creation of a juvenile guardianship "does not permanently separate a parent and child," but instead "allows the child to keep a relationship with the parent when placement with the parent is not possible." *In re TK*, 306 Mich App at 705. Even so, "a court can order a guardianship only if it determines that [doing so] is in the child's best interests[.]" *In re Rippy*, 330 Mich App 350, 360; 948 NW2d 131 (2019) (quotation marks and citation omitted; alterations in original).

C. THE TRIAL COURT'S LEGAL AUTHORITY WITH RESPECT TO RESPONDENT-FATHER

Before reaching the issue of whether the juvenile guardianship was in the minor children's best interests, we must address respondent-father's argument that the trial court did not have authority to create the guardianship as related to SH and TH. For that assertion, respondent-father

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[5] "MCL 712A.19a(11) mandates criminal background checks, home studies, central registry clearances, and investigations relative to proposed guardians." *Ballard*, 323 Mich App at 236.

contends that a trial court loses authority to enter further orders regarding the minor children during a pending appeal of the adjudication trial. Respondent-father only cites MCR 7.208(A) in support of his argument. That rule provides that "[a]fter a claim of appeal is filed or leave to appeal is granted, the trial court or tribunal may not set aside or amend the judgment or order appealed from except" under certain circumstances not applicable to this case. *Id*. Notably, that rule applies to "the judgment or order appealed from," and not, as suggested by respondent-father, future orders that might be entered by the trial court. *Id*. Instead, Michigan statutory law provides that "[t]he pendency of an appeal from the family division of circuit court in a matter involving the disposition of a juvenile . . . shall not suspend the order unless the court to which the appeal is taken specifically orders the suspension." MCL 600.1401. Further, "an appeal does not stay the effect or enforceability of a judgment or order of a trial court unless the trial court or the Court of Appeals otherwise orders." MCR 7.209(A)(1). There were no such orders staying proceedings in this case. Thus, when the trial court ordered the juvenile guardianship, the adjudication order was still in effect, regardless of the pending appeal. *Id*.; MCL 600.1401. Consequently, respondent-father's argument about the trial court lacking legal authority is meritless.

D. ANALYSIS OF JUVENILE GUARDIANSHIP

The trial court properly determined that it was in the minor children's best interests to establish a juvenile guardianship.

"[I]n deciding whether to appoint a guardian, a court must determine whether the guardianship is in the child's best interests, and to do so the court may consider the best-interest factors from the Child Custody Act, the Adoption Code, or any other factors that may be relevant under the circumstances of a particular case." *In re COH, ERH, JRG, & KBH*, 495 Mich 184, 208; 848 NW2d 107 (2014). When considering termination of parental rights, this Court has held that the trial court is permitted to consider "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, [] the advantages of a foster home over the parent's home . . . the length of time the child was in care, the likelihood that the child could be returned to her parents' home within the foreseeable future, if at all, and compliance with the case service plan." *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App 49, 63-64; 874 NW2d 205 (2015) (citations and quotation marks omitted).

First addressing respondent-father and JH, the trial court did not abuse its discretion in establishing the juvenile guardianship. JH entered foster care shortly after she was born in August 2017, and respondent-father was adjudicated and provided a PAA in March 2018. At that time, respondent-father was in prison. He was employed in the prison kitchen, completed and returned worksheets sent to the prison by HATW, and sometimes wrote letters to JH. Respondent-father did not submit written documentation of his plan once leaving the prison, missed writing several letters, and did not sign the appropriate documents to have a psychological evaluation or his prison records released to HATW. When respondent-father was released from prison, he began living in a halfway house, where JH could not live. At that point, respondent-father started seeing JH in a therapeutic parenting setting. While that started out well, respondent-father eventually started struggling to control the children. Toward the end, the therapeutic parenting-time supervisor would regularly have to step in to regain control of the children. Respondent-father had also shown reluctance to participate in parenting classes, whether specialized or not. He had finally enrolled in classes by the time the guardianship was ordered, but he had not yet completed it. Respondent-

father also expressed hesitance to believe he needed help with parenting, despite repeated statements at hearings that he was having issues controlling the children. In pertinent part, respondent-father stated that he was a good parent and did not need help.

Respondent-father also showed that his work life and living arrangements were highly volatile. When he was living at the halfway house, he could not state where he was going to live afterward. At the dispositional review hearing before the one at issue, he said that he was living with his grandmother in Detroit, but that he spent one night per week with respondent-mother. By the time of the hearing at issue, respondent-father had moved in with respondent-mother and four of his other children, meaning a total of six people lived in the home at that time. There was testimony that there was not room at the home for JH to move in. Further, respondent-mother was living there, and as will be discussed later, was not a proper person for JH to be around. Lastly, when Dickinson went to the home, it smelled overwhelmingly of marijuana. As to his work life, respondent-father provided proof of employment only on an intermittent basis. At some points, there was concern regarding whether he was employed and could care for his children. He specifically stated that having to pay child support was inhibiting his ability to find suitable housing for his children.

Respondent-father also had issues with drugs. In August 2020, respondent-father tested positive for cocaine once and for marijuana three times. After that, respondent-father unilaterally decided that he would stop attending random drug screens. At the hearing, respondent-father claimed that he was testing through his parole officer, and that he had not had any positive screens. Respondent-father never provided those screens, however, and Dickinson's conversation with the parole officer caused hesitance to accept those results. In pertinent part, Dickinson testified that the parole officer told her that respondent-father only tested twice per month and that he could not be observed providing the sample.

With regard to JH, considering the length of time she had been in foster care, Dickinson testified that she needed consistency and stability. JH also had a stronger bond with her relative caregivers and proposed guardians than she did with respondent-father. Indeed, Dickinson testified that JH's bond with respondent-father was minimal and just forming. JH had a strong bond with the proposed guardians, thought of them as her parents, and was doing well with them.

In light of all of those facts, the trial court did not abuse its discretion in determining that it was in JH's best interests to have a juvenile guardianship. She needed consistency and stability after having been in foster care for so long. Respondent-father demonstrably could not provide that for her. He switched jobs regularly, moved to homes where JH could not live, associated with respondent-mother who had issues with drugs, and did not take his issues with drugs seriously. Indeed, at the time the guardianship was ordered, respondent-father was living at a home that did not have enough space, smelled of marijuana, and respondent-mother lived there. Moreover, JH's bond was stronger with the potential guardians than with respondent-father, and she was progressing well with them. Respondent-father showed difficulty parenting JH, while there was no such evidence related to the proposed guardians. Other than respondent-father being JH's biological father, there was no evidence to suggest that it would be in JH's best interests to continue in limbo in the hopes that respondent-father would prepare his life for the return of JH in his care. He showed no indication that he could or would do that in the near future. In short, all of the various factors listed in *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App at 63-64, favored

the trial court's decision that a juvenile guardianship was in JH's best interests, and thus, the trial court did not abuse its discretion, *In re TK*, 306 Mich App at 709.

Next, respondent-mother argues that the trial court abused its discretion in entering the juvenile guardianship for SH, TH, and JH. The facts specifically related to JH—her time in foster care and need for permanency and stability—just discussed above also apply here. Like respondent-father, respondent-mother's bond with JH was not well established. SH and TH, similarly, had been in foster care almost all of their lives—more than four years at the time the guardianship was created. They had been with the same relative caregivers, who also were the proposed guardians, for that entire time. SH's and TH's bonds with those individuals were strong. SH and TH also had mental-health concerns that had been considered in trauma assessments. According to Dickinson, those assessments showed that SH and TH were in dire need of permanency and stability. They also did not react well to yelling and loud voices because of their history with trauma. SH and TH regularly acted out when they were supposed to go to parenting-time sessions with respondent-mother, which was a consequence of their trauma.

The trial court was required to consider whether respondent-mother was prepared to meet the needs of SH and TH, or whether it would be better for them to be placed in a juvenile guardianship. Respondent-mother had been receiving services from HATW since late 2016, when she was adjudicated after admitting to overdosing on an array of illegal substances, including marijuana, opioids, and cocaine. While respondent-mother was unconscious from the overdose, SH and TH were also home with their other siblings not subject to this appeal. Through 2017 and 2018, respondent-mother tested positive for cocaine on several occasions and significantly more times for marijuana. She also missed many drug screens, explaining that she was too busy with work to go to them. In 2019, respondent-mother against tested positive for cocaine in April and May 2019. Despite being told by Dickinson and a psychologist that continuing to use marijuana was risky behavior considering respondent-mother's history with drug addiction, she began openly admitting her marijuana use. Instead, respondent-mother focused her argument on the fact that marijuana had been legalized, did not inhibit her from properly parenting the children, and she never appeared intoxicated during parenting-time sessions. Respondent-mother attempted to gloss over the fact that she unilaterally decided that she would no longer attend random drug screens in 2019 and 2020, and had tested positive for cocaine. Nevertheless, the fear regarding her issues with addiction remained, and the trial court relied on that fact in determining that a juvenile guardianship was in SH's, TH's, and JH's best interests.

Respondent-mother also had issues with parenting the three minor children. As to all three children, there was testimony that respondent-mother had trouble controlling the children, allowed her mother and older daughters to do most of the parenting, and would resort to threats of corporal punishment. With respect to SH and TH, respondent-mother failed to account for or to truly appreciate their traumatic past. When respondent-mother was told that SH and TH did not react well to raised voices or shouting, respondent-mother testified that speaking loudly was just her personality and she could not change that part of her parenting. Respondent-mother continued to believe that speaking loudly was appropriate, even after several warnings from Dickinson and a referral to the trauma assessments explaining why that was not appropriate. Moreover, even though there had been several referrals from Dickinson, respondent-mother had never enrolled in or completed a trauma-focused parenting training. Her reticence in that regard was connected to previous statements from respondent-mother that she did not fully trust the results of the trauma

assessments, and thought that the actual assessments made SH's and TH's behavior worsen. At the time of the hearing establishing the juvenile guardianship, respondent-mother was defensive about her parenting style and confessed that she did not believe she had to change anything. She also acknowledged that she started family therapy, but stopped going of her own accord.

Respondent-mother had also not taken her own mental health seriously in the case. While she intermittently attended NA and AA during portions of the proceedings, she never committed to individual counseling, family therapy, or group therapy. Respondent-mother's living situation and career were hectic as well. On the day of the hearing at issue, respondent-mother informed Dickinson that she had a new job, her third since the case began, She had not provided proof of that employment to Dickinson despite being requested to do so in her PAA. Respondent-mother's living arrangements were the same as respondent-father's, which were too small for the children and smelled overwhelmingly of marijuana.

To summarize, the factual record presented to the trial court provided a clear showing that JH, but especially SH and TH, were in desperate need of consistency and stability. The record also revealed that respondent-mother had either no desire or no ability to create that living situation for the children. The three minor children had a stronger bond with their proposed guardians than they did with respondent-mother. Respondent-mother had trouble parenting the children, while they were progressing well with the relative caregivers. Respondent-mother did not take SH's and TH's mental-health issues seriously, while the caregivers ensured that SH and TH were enrolled in an array of different therapies to ensure their progression. Further, respondent-mother testified that she did not attend IEP meetings for SH and TH simply because she was too busy at work. Respondent-mother also had issues with drugs that she was refusing to address. She did not attend group therapy, NA, or AA meetings to help with her sobriety. She refused to attend random drug screens and openly acknowledged that she used marijuana. Respondent-mother did not ensure that the children had a proper place to live, instead choosing a home that did not have space for the minor children and smelled of marijuana. In short, all of the various factors listed in *In re Payne/Pumphrey/Fortson Minors*, 311 Mich App at 63-64, favored the trial court's decision that a juvenile guardianship was in the minor children's best interests, and thus, the trial court did not abuse its discretion, *In re TK*, 306 Mich App at 709.

In an attempt to escape that conclusion, respondent-mother argues that the trial court relied too heavily on the positive marijuana tests and should have disregarded the allegedly false positive cocaine screens from Aversys. Respondent-mother's argument is fundamentally flawed because she has a history of drug addiction and overdose when her children were home. Not only did the psychologist who evaluated respondent-mother recommend that she avoid the risky behavior of using marijuana, but there was legitimate concern that respondent-mother was still using cocaine. While respondent-mother contends that Aversys was known in the industry to provide false positive drug screens, she fails to consider that she also had positive cocaine screens with two other drug testing facilities—Forensic Fluids and McCullough, Vargas, and Associates. Respondent-mother tries to further undermine the positive screens for cocaine by noting that, in March 2018, her drug screen was positive for cocaine but a hair-follicle test performed the next day was negative. That argument by respondent-mother, however, was belied by testimony in the adjudication trial at which respondent-mother first made the argument. The expert witness at that hearing testified that it was common for a hair-follicle test to be negative for cocaine when a test of oral fluids was positive. This was because hair-follicle tests showed chronic use, while the oral

fluids showed recent use. In other words, if respondent-mother only used cocaine once in a while, the negative hair-follicle test was not dispositive. Indeed, considering the evidence before the trial court, it was entirely reasonable to assume that respondent-mother was skipping drug screens to avoid showing that she was using cocaine. While a single false positive screen could be possible, respondent-mother had at least 14 positive cocaine screens over the span of three different testing facilities. The trial court did not clearly err in finding that respondent-mother still had a significant issue with substance abuse.

As to respondent-mother's claim that marijuana was legal and did not affect her parenting, she overlooks that her PAA directed her to avoid all illegal and nonprescribed drugs. While respondent-mother contended that her use of marijuana was to treat pain, she did not provide any evidence that it was true. In fact, on the assumption that the use was pain related, the psychological evaluation recommended that respondent-mother see a doctor who was a pain specialist. Respondent-mother, however, never provided any evidence that she saw such a doctor or that the pain doctor prescribed her marijuana to treat pain. Moreover, the trial court was obviously cognizant of the circumstances under which SH and TH entered foster care. Respondent-mother was unconscious from an overdose that included marijuana use. Further, there was abundant testimony that respondent-mother did not handle parenting-time well and deferred to her mother and older daughters. Although respondent-mother never appeared intoxicated at those parenting-time sessions, it was reasonable to assume that respondent-mother's use of marijuana, and potentially other drugs, was related to her poor parenting skills. Thus, the trial court did not clearly err in relying on respondent-mother's continued use of marijuana when determining whether a juvenile guardianship was in the minor children's best interests. To the extent that respondent-mother asserts that the trial court relied almost exclusively on the marijuana use, that argument is specifically belied by the record and the preceding analysis regarding all of the reasons that the juvenile guardianship was appropriate.

In sum and in the simplest possible terms, the minor children's needs were not and could not be met by respondent-mother, but were being met by the proposed juvenile guardians. Consequently, the trial court did not abuse its discretion when it determined that the juvenile guardianship was in the minor children's best interests. *In re TK*, 306 Mich App at 709.

Affirmed.

/s/ Jonathan Tukel
/s/ David H. Sawyer
/s/ Thomas C. Cameron