



# ORIGINAL

NOT FOR OFFICIAL PUBLICATION

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

**FILED**  
COURT OF CIVIL APPEALS  
STATE OF OKLAHOMA

IN THE MATTER OF P.P., Alleged  
Deprived Child:

CHRISTY BAUGH,  
Appellant,

vs.

STATE OF OKLAHOMA,  
Appellee.

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AUG 31 2023

JOHN D. HADDEN  
CLERK

Case No. 120,794

APPEAL FROM THE DISTRICT COURT OF  
CLEVELAND COUNTY, OKLAHOMA

HONORABLE BETHANY STANLEY, TRIAL JUDGE

**AFFIRMED**

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Norman, Oklahoma

For Appellant

Lyndi Steverson  
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Norman, Oklahoma

For Appellee

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

Christy Baugh appeals an order of the district court, issued after a jury trial, terminating her parental rights to minor child, P.P. On review, we affirm the order of the district court.

## BACKGROUND

P.P., aged four, was taken into custody in November 2018 and adjudicated deprived by stipulation in April 2019. She was removed because of reports and observations that her mother, Ms. Baugh, was sleeping or passing out for long periods due to either her use of prescription medication or other medical conditions.

The reports and conditions were described in the DHS Individualized Service Plan (ISP) as follows: “Mother will take pills, which will cause her to pass out or sleep all day” and not be able to care for minor children, M.P.<sup>1</sup> and P.P. R. at 50. DHS further received reports that Mother will not cook for P.P. and child M.P. and found pots and pans in the bathtub. P.P. was observed to have not eaten breakfast, lunch, or dinner the previous day. Upon removal, DHS observed P.P. had no clean underwear. It was reported Mother takes medication and is “sick” and will frequently vomit. Mother will go to sleep for hours and when she wakes up, she will do “odd things.” R. at 50. Mother has fallen or fainted at times. DHS observed Mother to display erratic behaviors including slurring of words, dry mouth, and inability to answer questions or sit still. DHS observed the residence to be covered with trash on the kitchen table and floor, clothes on the floor and couch, and dirty dishes piled in the kitchen sink. DHS found food in the fridge, but the food had expired and was not accessible to P.P. *Id.*

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<sup>1</sup> A second child, M.P., was also removed but is not the subject of this appeal. M.P. is apparently in the custody of his father, who is not P.P.’s father.

Ms. Baugh stipulated to the allegations of the deprived petition, including: nutritional neglect of a child; personal hygiene neglect of a child; mental health instability; and failure to maintain a safe and sanitary home. Tr.Vol.I, pg. 154. Ms. Baugh, who was represented by counsel, signed an ISP described as requiring that she:

make contact with CCFI [Center for Children and Families, Inc.] for parenting, for an assessment, parenting classes, following their recommendations, providing a safe and stable home. The adult living in the home needs to complete background checks: adequate food, furnishings allow unannounced visits by DHS. Home to be clean and free of visible safety environmental hazards.

Tr.Vol.I, pg. 155-56. She was also required to undergo a mental health assessment, follow the recommendations of a mental health provider, and participate in treatment. *Id.*

The ISP progress report of August 2019 noted that DHS continued to have concerns for Ms. Baugh's mental health. "During contacts with Ms. Baugh she often cannot stay on one topic, cannot summarize her responses, and needs constant redirection during conversations." R. at 112. It also noted that Ms. Baugh was having difficulty concentrating during parenting classes at CCFI, and also tended to be disruptive.

Ms. Baugh rescheduled her intake assessment with CCFI several times and due to Ms. Baugh's inability to stay on topic, the intake had to be completed in two sessions. CCFI has reported that Ms. Baugh has attended 3 out the last 5 classes and they have concerns for Ms. Baugh's behavior during classes. In the first class Ms. Baugh attended, she complained of being tired and made comments that she was tricked into signing the petition and that her lawyer did not do a good job of reviewing it with her because he knows that she would have never signed that. Ms. Baugh has also made comments that she should not be in the classes because she does not even use drugs like the other parents. During the second class, Ms. Baugh

was answering phone calls and would speak loudly on the phone outside of the classroom to the point that other staff at CCFI were being disrupted from their offices.

*Id.*

The report further noted that Ms. Baugh had tried to pick up M.P. from his bus stop, even though she was only allowed supervised visitation with M.P., and none was scheduled that day.

When worker spoke to Ms. Baugh about this incident, Ms. Baugh declined that she tried to take [M.P.] and [said] that she just so happened to be driving by his bus stop as he was getting off the bus and could not just continue driving. When worker tried to ask why Ms. Baugh would even be driving by there Ms. Baugh did not give a clear answer and made some comments about returning home from the hospital. Worker has been unable to completely understand what occurred on that day.

R. at 113. DHS also received information that Ms. Baugh had made statements to her oldest son that she was going to kill herself. *Id.*

The October 2019 ISP progress report noted that Ms. Baugh was “close to being kicked out” of the CCFI class because of “rants” regarding her being tricked into signing the ISP and the case against her being a lie. DHS had received reports that Ms. Baugh would still tend to talk about “random things” during classes and that her text messages to DHS workers changed topic constantly and were hard to understand. Ms. Baugh was alleged to have also talked in class about “other children she has recently adopted.” Ms. Baugh has no known adopted children. R. at 128.

DHS referred Ms. Baugh to a Dr. Fuchs for a mental evaluation. *Id.* At this time DHS noted that it was “extremely concerned with mother’s mental health and will need to see the results of the psychological evaluation to see if she is

capable of parenting.” R. at 129. As of October 2019, P.P. had now been out of the home for ten months. *Id.* The December 2019 progress report noted that there had been some difficulty at Dr. Fuchs’ office. Ms. Baugh had initially been unable to complete the intake process. Allegedly, she took paperwork and “stole a Rolodex” from Dr Fuchs’ office. R. at 144. Dr. Fuchs eventually assisted her by verbally going over the paperwork. Ms. Baugh cancelled several appointments before Dr. Fuchs was able to make an evaluation.

The report also noted feedback from CCFI that Ms. Baugh was not making progress, primarily because she was still refusing to accept that there was any reason for P.P. being in foster care except that Ms. Baugh had been tricked into signing an ISP. *Id.* The report finally noted that DHS caseworkers had still not been able to meet with Ms. Baugh at home because she was unable to keep the appointments for various reasons. R. at 145.

The January 2020 progress report noted, “At this point, reunification has not been possible due to Ms. Baugh’s erratic behavior and admitting she ran out of her medication and was trying to get it refilled. Ms. Baugh appears to continue to struggle with re-filling her medications and handling basic life responsibilities.” R. at 192. It also noted that “Ms. Baugh’s participation has been good and she does well with her daughter during visits, but she is very hard to understand and her behavior is difficult to understand as well.” *Id.*

DHS did manage to conduct a home visit and found that the home was filled with clutter and there were narrow pathways to get through the home. Ms.

Baugh explained she was going through her garage to clean it out and was sorting through everything. However:

There were piles of dishes, tools, and other household items laying all over the floor. The visible safety threats were the tools that were laying on the floor within reach of a young child. When OKDHS informed Ms. Baugh about the safety threat, she was very surprised and said she would have the home cleaned by the next day. The home has looked like this for many months now.

R. at 192.

The May 2020 progress report detailed further unfortunate developments. Ms. Baugh's husband, Dustin Proffit, had left the home, cut-off contact with Ms. Baugh, and was no longer providing Ms. Baugh with financial support.<sup>2</sup> The report stated that Ms. Baugh was unable to work because of her psychological condition, would have to leave the home by June 2020 because she could not pay rent, and that she had been unable to afford her medication since December 2019. Ms. Baugh stated that she intended to move in with a friend, Darren Jantz.

R. at 227.

The August 2020 progress report detailed that Ms. Baugh had successfully completed her parenting classes at CCFI. She had reported moving into a home with "a friend" and his two teenage daughters.<sup>3</sup> Ms. Baugh had reported that she had secured some employment doing promotional work for "Rage in a Cage," apparently some type of fighting entertainment business. She had also

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<sup>2</sup> Dustin is described in the record as P.P.'s legal, but not biological father. P.P.'s biological father is described as "unknown." R. at 68.

<sup>3</sup> The friend was apparently not the "Darren Jantz" identified in the May 2020 report but is identified in the November 2020 report as "Jeremy Arnold."

scheduled mental health counseling at the Oklahoma Community Medical Health Center consistent with the report of Dr. Fuchs. R. at 236. DHS noted that P.P. had now been in care for almost 20 months but requested that the court approve a “dual track” proceeding with either reunification or adoption as a goal, because DHS wanted to see how she would function when Mr. Proffit was no longer a factor.

The November 2020 progress report detailed that Ms. Baugh’s living situation with Jeremy Arnold appeared stable, but that DHS was unable to perform home visits or monitor Ms. Baugh’s medication usage because she could never schedule a convenient time. DHS opined that Ms. Baugh’s very short attention span and unorganized life was hindering her ability to put P.P.’s needs above her own by not focusing on getting her daughter back in her care. R. at 252. DHS requested a continuing exception to termination in order to assess Ms. Baugh’s ability to maintain safe and stable housing and her ability to manage her mental health in order to properly care for P.P. DHS noted, however, that if she is not able to maintain these behavioral changes or make significant progress DHS would recommend termination at the next court hearing. *Id.*

The February 2021 report noted that Ms. Baugh’s home with Jeremy Arnold still appeared stable, that Mr. Arnold had a job and was providing financial support and transport (Ms. Baugh does not have a driver’s license), and that DHS had “no concerns” about him. It noted that Ms. Baugh’s promotional work for “Rage in the Cage” did not provide adequate or stable income. It stated that Ms. Baugh was prescribed up to three Xanax pills a day for anxiety issues

and was controlling her medication intake by setting out only three pills per day, so she did not forget how many she had taken.

By April 2021, Ms. Baugh's situation appeared to have declined, however. A visit found that substantial friction had arisen between Ms. Baugh and Mr. Arnold over his attempts to monitor her medication intake and that Mr. Arnold and his daughters had moved out. There was also difficulty between Ms. Baugh and the daughters, who Ms. Baugh believed were manipulating Mr. Arnold and lying about her. R. at 285. Ms. Baugh indicated that she was intending to become "recertified in sports medicine and nutrition" and to obtain stable employment and a place of her own. The report also noted, however, that Ms. Baugh was not evidently managing her mental health well, that there had been "calls for services for attempted suicide" and "disturbance calls" at the home. R. at 286.

Ms. Baugh's situation had deteriorated further by the August 2021 report. After several attempts to schedule a visit were rebuffed, a DHS worker arrived unannounced at the house leased by Mr. Arnold. DHS found another friend and mentor, Dustin Randle, apparently assisting Ms. Baugh to get ready to move out. Ms. Baugh alleged that the house was a mess because Mr. Arnold and his daughters "broke into her home and destroyed it." R. at 314. The DHS worker

observed the home to have dog feces and pee throughout the home, due to Ms. Baugh's two dogs living there. There was trash, piles of clothes, and unknown pills spread out all over the floor. Worker also, (sic) noticed when entering the home outside the door there were more pills all over the porch.

R. at 314. The kitchen counter, sink and stove were "covered with bottles of cleaning supplies, dirty pots, pans and dishes." *Id.* Ms. Baugh told the worker



that she was upset that someone would do this because her dogs could die from the pills. *Id.* The report noted that Ms. Baugh did not know where she was going to move, that she no longer received benefits, and that she had no income.

DHS interviewed Dustin Randle who confided that Ms. Baugh would sometimes take ten or more Xanax tablets in a day. He also stated that he had seen Ms. Baugh take two tablets at once and pass out. He stated that at one time, after Ms. Baugh had not answered her phone for several days and would not answer the door, he had to break into the house through the back door to check on her. Ms. Baugh told the DHS worker that she only falls asleep "if she is running (mentally) and going and pushing all day and needs to really sleep." *Id.* She blamed Mr. Arnold leaving the home for her not having regained custody of P.P. and reported that she had blackened both of his eyes because of this.

The October 2021 report notes that Ms. Baugh had continued to occupy the property because of a Covid-related eviction ban, which had expired on September 1. She stated that she returned to the home on September 3rd to get her belongings before the house was locked up. Upon returning, however, she said she found the back room of the house was on fire. She alleged that someone had entered and "poured gasoline or lighter fluid over her stuff and set fire to it." R. at 331. The report noted that Ms. Baugh still claimed to be employed, but never provided the name of an employer or any work schedule. Ms. Baugh stated that she had stopped taking medication and was attempting to use natural products. *Id.* Her therapist reported considerable difficulty in working with Ms. Baugh because she would consistently miss appointments and frequently text

or call the therapist after hours. When the therapist then tried to set an appointment to discuss the matter by phone the next day, Ms. Baugh would not call. R. at 332.

DHS noted that Ms. Baugh still claimed to have numerous jobs but no proof of employment and that she had reported having numerous seizures in September 2021. A DHS worker also witnessed inappropriate interactions during visitation, in which Ms. Baugh told P.P., now age 6, that her grandmother had died, that P.P.'s legal father Dustin Proffit was "squatting in the deceased grandmother's house" doing drugs, and that Ms. Baugh had "put \$30,000 down on the house" and sold her truck so that she could get the house for P.P. *Id.* She also tried to involve P.P. in discussing the placement of P.P.'s older brother with his father, telling P.P. that this had occurred because the brother's stepmother had lied about Ms. Baugh in court. She then engaged in a discussion of how someone had tried to cut the identification chip from her dog's ear. She also told P.P. numerous times that she would be "coming home" and tried to elicit statements from the DHS worker in P.P.'s presence that P.P. would be coming home. The worker found it difficult to redirect the discussion to subjects more appropriate for P.P.'s age. *Id.*

In December 2021 Ms. Baugh reported that she was living in Mink, Oklahoma, with friends. She stated she had been fired from three jobs, but now worked on a farm as a cattle herder. She stated her car that she drove to visit P.P. had turned out to be stolen, and she was facing federal charges because it

was from a chop shop. Further, she stated her identity had been stolen again, and someone had been getting a lot of tickets in her name. R. at 370.

In February 2022, Ms. Baugh reported that she was no longer living in her previous situation, apparently because another resident of the home, a Mr. Bergin, obtained a protective order against her. She was able to move down the street and stay with another friend. Ms. Baugh reported that, in January, she was now living in Moore with a Mr. Drainum.<sup>4</sup> She said that Mr. Drainum was open to P.P. coming into his home and was going to help Ms. Baugh get a home for them. She stated that she had a job “at Minco” but was fired because she missed the first day of work. DHS also noted that the visitation relationship with P.P. was becoming strained, and P.P. became extremely upset with her mother, responding to conversation by yelling and accusing Ms. Baugh of not telling the truth. R. at 386.

That same month, DHS filed a motion to terminate Ms. Baugh’s parental rights on the grounds that P.P. had been in foster care for at least fifteen of the last twenty-two months and it was not safe to return her to Ms. Baugh’s custody. *See* 10A O.S. § 1-4-904(B)(16). The final report before trial noted that Ms. Baugh had tested positive in February for amphetamines, methamphetamine, and marijuana use. She was no longer living with Mr. Dranam and intermittently staying at the houses of two friends. She had been fired from another job and left or been fired from yet another. She was also accused of passing herself off

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<sup>4</sup> Rendered in a later report as Mr. “Dranam” and, at trial, as “Dranum Willougby.” Tr.Vol.II, pg. 300.

as a manager during the short time she was a Braum's employee. She was reported as having made disturbing references to the DHS worker regarding a man called "Adrian" who had purportedly shot a DHS worker during a custody case. R. at 411-12.

The termination trial took place on September 21-22, 2020. The jury found that P.P. had been in foster care for more than fifteen of the most recent twenty-two months; that P.P. could not be safely returned to the home of the parent; and that termination would be in P.P.'s best interest. Ms. Baugh now appeals the result of this trial.

#### **STANDARD OF REVIEW**

When the state terminates parental rights, it must support its allegations for termination with clear-and-convincing evidence. *Matter of L.M.A.*, 2020 OK 63, ¶ 38, 466 P.3d 559, 569. This Court does not reweigh the evidence but determines if the evidence for termination "is such that a fact finder could reasonably form a firm belief or conviction that the grounds for termination were proven." *Id.*

#### **ANALYSIS**

Ms. Baugh first notes that the state failed to cite the full statutory grounds in its motion for termination by referencing "10A O.S. § 1-4-902(A)(1)." R. at 399. In her appellate briefing, Ms. Baugh notes, for the first time on appeal, that the

correct statutory cite is 10A O.S. § 1-4-904(B)(16), that 10A O.S. § 1-4-902(A)(1) does not state any grounds for termination, and urges reversal on this basis.<sup>5</sup>

While it is correct that the state used the wrong section number in its motion to terminate, the majority of the relevant language from the statute was included. The motion avers that the “child has been placed in foster care by the Department of Human Services for fifteen (15) of the most recent twenty-two (22) months” and that “it is in the best interests of [P.P.] that parental rights of Christy Baugh be terminated.” Only the language requiring that the “child cannot be safely returned to the home of the parent” was omitted from the motion. Further, the state clearly cited and addressed the correct elements of § 1-4-904(B)(16), including both the length of time in state custody and that the “child cannot be safely returned to the home of the parent” during trial and in the jury instructions. Upon review of the full record, we find no indication that either the jury or Ms. Baugh’s counsel were confused as to the cited grounds or required elements for termination. Under these circumstances, we find the state’s error in pleading did not affect any substantial right of Ms. Baugh and therefore will not reverse on this issue. *See* 12 O.S. § 78 (“The court, in every stage of action, must disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.”).

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<sup>5</sup> Title 10A O.S. § 1-4-902(A) states: “A petition or motion for termination of parental rights may be filed independently by either the district attorney or the attorney of a child alleged to be or adjudicated deprived.” There is no § 1-4-902(A)(1).

Ms. Baugh next cites *Matter of Z.M.Z.*, 2019 OK CIV APP 78, 454 P.3d 777, in which this Court reversed a termination decision, as analogous to this case. The analogy Ms. Baugh draws between the facts of *Z.M.Z.* and the current case appears to be twofold.

First, Ms. Baugh argues that the *Z.M.Z.* court rejected termination even though the one child had been in foster care for “his entire life” and the other for “half her life,” whereas P.P. has been in foster care for only “40% of her life.” *Brief-in-chief*, pg. 5. Ms. Baugh evidently argues that time in custody should not be a factor for consideration in the best interests inquiry because the *Z.M.Z.* court rejected termination, even though one child had been in foster care for “his entire life.” These percentages are less persuasive when reduced to actual numbers, however. In *Matter of Z.M.Z* the children were removed on August 29, 2016, and trial was held on April 16, 2018. Hence the children had been in care for 19 months. Here, P.P. was removed around November 2018, and trial was held in September 2022, three years and ten months after removal. Further, the *Z.M.Z.* Court clearly reversed termination on the basis of failure to show the children could not be safely returned to father’s home, not because of some failure to prove sufficient time in custody. As in this case, time in custody was effectively admitted, with the remaining statutory question being whether it was safe to return the child to the parent’s home. In this case, unlike *Z.M.Z.* there was sufficient clear-and-convincing evidence that it would have been unsafe for P.P. to return to Ms. Baugh’s care at the time the motion was filed, as well as at the time of trial.

Second, Ms. Baugh continues to cite to *Z.M.Z.* as analogous on the question of sufficiency of the evidence to support termination and urges reversal on this basis. The evidence in *Z.M.Z.* was substantially different from the evidence in this record, however.<sup>6</sup> Ms. Baugh argues on appeal that there was only “one sentence of testimony” in her case indicating that it was not safe to return P.P., and this constitutes insufficient evidence to justify termination. In fact, although the DHS witnesses may have made only one final and conclusive statement that P.P. could not be safely returned to Ms. Baugh, the witnesses were asked in relation to each of the admitted reports whether safe return was possible at that time. The witnesses answered “no” on at least ten occasions.<sup>7</sup>

On review, we inquire if the evidence for termination is such that a fact finder could reasonably form a firm belief or conviction that the grounds for termination were proven. The transcript shows that nineteen ISP progress

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<sup>6</sup> The *Z.M.Z.* Court found:

Father had no reason to be subject to a DHS proceeding but for Mother dropping the baby, an unquestionably serious act but one which, on the record presented, can only be seen as a one-time event. Father participated in all the requirements of the treatment plan, despite the hardship of having to travel to another town to participate in some of the services and visit Children. The State has established that the only condition to be corrected was Mother’s presence in the home and the State failed to show Father’s home was unsafe for Children in any way other than Mother’s presence. But the State failed to allow Father to care for Children during the months Mother was out of the home or acknowledge Father’s belief that Mother would not be a threat after receiving treatment. We find the trial court erred in finding Father failed to correct the conditions leading to the deprived adjudication and we reverse that finding.

*Matter of Z.M.Z.*, 2019 OK CIV APP 78, ¶ 16, 454 P.3d 777, 783.

<sup>7</sup> The DHS workers testified on multiple occasions that, at the time each progress report was made, it was not safe to return P.P. See, e.g., Tr.Vol.I, pgs. 149, 153, 158, 163, 205, 257, and Vol. II, pg. 284, 302, 314, 315.

reports, as detailed in our summary of facts, were sponsored at trial by the DHS workers that produced them and admitted into evidence without objection.<sup>8</sup> These reports, as detailed in the background section of this opinion, provide sufficient evidence to allow a fact finder to have reasonably formed a firm belief or conviction that continued custody by Ms. Baugh would place P.P. in unsafe conditions and that each of the grounds for termination were proven.

In addition, the same witnesses further confirmed and detailed the contents of the reports under questioning and were subject to cross examination. These details included chronic housing instability; unsafe conditions when Ms. Baugh did have housing; an inability to focus enough to interact with DHS workers, counselors, and medical professionals; a persistent failure to understand or admit there was a basis for P.P. being in state custody; continued abuse of both legal and illegal drugs; suicidal ideation; driving without a license; perpetrating domestic violence; and an inability to interact appropriately with P.P. By the time of trial, P.P. had been in foster care for almost four years, but at no time does the record show that the child could have been safely returned to the custody of Ms. Baugh.

### **CONCLUSION**

It is not the function of this Court to reweigh the evidence but to determine if the evidence for termination “is such that a fact finder could reasonably form

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<sup>8</sup> These were the reports of February 2019; April 2019; August 2019; October 2019; December 2019; January 2020; February 2020; May 2020; August 2020; November 2020; February 2021; April 2021; June 2021; August 2021; October 2021; December 2021; February 2022 and July 2022.



a firm belief or conviction that the grounds for termination were proven.” *Matter of L.M.A.*, 2020 OK 63, ¶ 38. In this case, we find the evidence supporting the trial court’s judgment—based on the jury’s unanimous verdict—sufficient.

**AFFIRMED.**

FISCHER, J., and HUBER, J., concur.

August 31, 2023