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ORIGINAL

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF K.G. & J.G.,)
Alleged Deprived Children:)
)
JESSICA GOODALL,)
)
Appellant,)
)
vs.)
)
STATE OF OKLAHOMA,)
)
Appellee.)

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

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Case No. 121,764

APPEAL FROM THE DISTRICT COURT OF
SEMINOLE COUNTY, OKLAHOMA

HONORABLE CHRISTOPHER ANDERSON, SPECIAL JUDGE

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AFFIRMED

Richard E. Butner
R. Rhett Butner
BUTNER & BUTNER,
ATTORNEYS-AT-LAW
Wewoka, Oklahoma

For Appellant

Christopher B. Hauger
ASSISTANT DISTRICT ATTORNEY
Wewoka, Oklahoma

For Appellee

OPINION BY GREGORY C. BLACKWELL, JUDGE:

In this deprived child proceeding, Jessica Goodall appeals from an order of the district court, entered after jury verdict, terminating her parental rights to her minor children, J.G. and K.G. After careful review of the record, we affirm.

BACKGROUND

K.G. and J.G. were removed from the home of Ms. Goodall and the children's father, Joshua Davis, on December 9, 2021. The children were taken to emergency custody based on allegations from DHS that Ms. Goodall had been arrested and no responsible party could be reached such that the children could be picked up from school that day. The state filed a juvenile deprived petition on December 17, 2021. An adjudication trial was set and held on April 4, 2022, and the court found that the state had met its burden and the children were adjudicated deprived. The conditions that caused the children to be deprived were the possession and use of illegal drugs or addiction and failure to maintain a safe and/or sanitary home. At a hearing on April 13, 2022, Ms. Goodall adopted an Individualized Service Plan (ISP). As part of this ISP, Ms. Goodall agreed to engage with a variety of services to help with substance abuse, parenting, mental health, domestic violence issues, and more.

The permanency plan in this case was initially reunification; however, on August 1, 2022, the state filed a motion to terminate parental rights. A jury trial on that motion was held September 18, 19, and 20, 2023. The jury returned verdicts of termination of parental rights as to both children on the statutory bases of substantial erosion of the parent child relationship and failure to correct conditions, and found that termination was in the best interests of the children. The order terminating parental rights ratifying the jury verdict was filed on October 16, 2023. Ms. Goodall now appeals.

STANDARD OF REVIEW

In parental termination cases, the state bears the burden to show by clear and convincing evidence that the section 1-4-904 requirements have been met. *In the Matter of C.M.*, 2018 OK 93, ¶ 19, 432 P.3d 763. Clear and convincing evidence is the degree of proof which produces a firm belief or conviction as to the truth of the allegation in the mind of the trier of fact. *Id.* Additionally, before parental rights may be severed, “the State must show by clear and convincing evidence that the child’s best interest is served by the termination of parental rights.” *In re C.D.P.F.*, 2010 OK 81, ¶ 5, 243 P.3d 21 (citation omitted). When reviewing the district court’s termination of parental rights, this Court examines the record on appeal to ascertain whether the decision to terminate is supported by the requisite clear and convincing evidence. *In re S.B.C.*, 2002 OK 83, ¶¶ 5-7, 64 P.3d 1080.

ANALYSIS

Failure to Correct Conditions

The jury was instructed on two statutory bases supporting termination, including 10A O.S. § 1-4-904(B)(5). That subsection, assuming the jury also finds termination is in the best interests of the child (discussed below), allows termination based on a finding that “the parent has failed to correct the condition which led to the deprived adjudication of the child, and ... the parent has been given at least three months to correct the condition.” 10A O.S. § 1-4-904(B). On appeal, Ms. Goodall argues that the trial court erred in terminating her parental rights for her failure to correct the following conditions: maintaining a home

environment that is free from illegal substances and that she will not participate in illegal drug use; maintaining a sanitary home with basic housing necessities, food and utilities, and the home is structurally safe and free from safety dangers; consistently providing for the children's basic needs; providing a home free from domestic violence; and maintaining mental health stability.

Domestic Violence and Mental Health Stability

We note at the outset that the court's adjudication order found only two conditions that caused the children to be deprived: 1) possessing/using illegal drugs/addiction and 2) failure to maintain safe and/or sanitary home. Both parties acknowledged during trial and in their briefing that domestic abuse was not added as a condition until after adjudication; further, neither side addresses mother's mental stability. In any event, upon review of the entire record we find that the state did not produce clear and convincing evidence regarding Ms. Goodall's failure to correct a condition regarding her mental health.¹ Alternatively, as it relates to both domestic violence and mental health stability,

¹ The state in its brief argues that the testimony of Oklahoma Family First peer recovery support specialist, Jim Collier, a witness called by Ms. Goodall, sufficiently proves her inability to properly address her mental health issues. The state argues that his testimony that Ms. Goodall at first struggled with honesty and has not yet completed treatment with him constitutes clear and convincing evidence of failure to address her mental health issues. We disagree.

Further, the state seems to imply that it was not required to produce evidence of Ms. Goodall's mental health instability because "that is what adjudication trials are for." See *Response Brief*, pg. 10. However, the adjudication hearing is not before us now. Our standard of review, as listed above, is that in order for the state to sever the rights of parents to their natural child, the state must support its allegations at trial by clear and convincing evidence. *In re S.B.C.*, 2002 OK 83, ¶ 5, 64 P.3d 1080, 1082. Thus, it is the state's burden entirely to produce clear and convincing evidence of failure to correct a condition, even after an adjudication trial. We find that the state did not meet its burden as to this issue.

we find that Ms. Goodall needed to have been adjudicated on those issues in order for a jury to have found that she failed to correct those conditions.

Specifically, 10A O.S. § 1-4-904(B)(5) states that the court may only move to terminate the rights of a parent to a child based on a finding that the parent has “failed to correct the condition which led to the deprived adjudication of the child.” It follows that a parent cannot fail to correct a condition that did not lead to adjudication of the child when that condition was not alleged before or during the adjudication hearing or in the adjudication order. Indeed, the Supreme Court has held that due process requirements mandate reasonable notice of the conditions leading to a deprived adjudication. *In re T.T.S.*, 2015 OK 36, ¶ 20, 373 P.3d 1022, 1029. Thus, because domestic violence and mental stability were not conditions which led to the children becoming deprived, Ms. Goodall did not have reasonable notice of those conditions prior to the adjudication of J.G. and K.G. While it appears the parties perhaps consented to their addition by way of adding domestic abuse and mental stability to the ISP, in order for a jury to terminate Ms. Goodall’s rights under 10A O.S. § 1-4-904(B) she needed to have been adjudicated on those two conditions prior to trial.

However, while the jury could not have found that Ms. Goodall failed to correct the condition of maintaining mental health stability or domestic abuse, we note that only one condition need not have been corrected in order to create a basis for termination under the language of 10A O.S. § 1-4-904(B)(5). Therefore, Ms. Goodall’s parental rights were still properly terminated if clear and convincing evidence showed a failure to correct the conditions of substance

abuse and providing safe and sanitary and shelter, as well as the substantial erosion of the parent child relationship. We will examine each issue.

Substance Abuse

The use of illegal drugs and addiction was a condition which in part led to the deprived adjudication of the children. Ms. Goodall agreed, as a part of her individualized service plan, to “attend, participate in, and complete a substance abuse treatment with an OKDHS contracted service provider within 30 days of signing this ISP.” *Disposition Order*, pg. 21. The ISP was signed by all parties on April 6, 2022. DHS caseworker, Danielle Dillman, testified that as of August 2022, Ms. Goodall had not started substance abuse treatment and that she had not reported to the service. Tr. Vol. I, pg. 172. In their family planning meeting in October 2022, Ms. Dillman was aware that Ms. Goodall had attended one appointment with Gateway to Prevention and Recovery to address substance abuse issues. *Id.* at 174. She testified that as of their meeting in December 2022, Ms. Goodall was on a walk-in basis only with Gateway because she had missed so many other prior appointments. *Id.* at 176.

Additionally, Corrie Caudle, who worked with Ms. Goodall at Gateway, testified about her involvement, or lack thereof, with the program. Ms. Caudle testified that Goodall was recommended to attend six groups a week, which would be nine hours of group per week, which is considered intensive outpatient. *Id.* at 199. Ms. Caudle noted that from October to November 2022 Ms. Goodall had only attended eight groups and that she had missed a substantial number of classes. *Id.* at 201. Additionally, Ms. Caudle testified that Ms. Goodall, when

she was recommended for services, was also supposed to submit for urinalysis twice a week. *Id.* at 202. On June 28, 2022, a urine sample was collected from Ms. Goodall at Gateway, and it was confirmed to be diluted. *Id.* The sample looked like water, there was no substance to it, which indicated tampering. *Id.* at 203. At her urinalysis appointment on September 6, 2022, her test was positive for alcohol and marijuana. On September 15, the test was positive for THC. *Id.* Later, on September 28, Ms. Goodall did not show for the urinalysis, which is considered an administrative positive. *Id.* Roughly a month later, Ms. Goodall attended a urinalysis appointment on October 14, 2022, the result of which was negative. *Id.* However, when asked if Ms. Goodall ever appeared for another UA after that instance, Ms. Caudle answered that she did not. *Id.* at 204. Ms. Caudle concluded by stating that Ms. Goodall had never been compliant with Gateway services. *Id.*

It appears that Ms. Goodall struggled throughout 2022 with transportation issues as well as an incident regarding the trailer she was living in catching fire. However, there is roughly a yearlong gap between Ms. Goodall's departure from services at Gateway and her decision to re-engage with substance abuse services at Oklahoma Families First (OFFI) in June of 2023. For example, caseworker at OFFI, Debbie Fallis, testified that she first came into contact with Ms. Goodall June 16, 2023, notably some fifteen months after she signed and agreed to engage in substance abuse services in her ISP. *Id.* at 234. Ms. Fallis testified that Ms. Goodall was still suffering from substance abuse issues in June 2023, but that she had been clean since starting services. *Id.* at 241. Finally, Ms. Fallis

added that as of September 2023, Ms. Goodall had been compliant with her substance abuse service at OFFI; however, as of the date of trial was non-compliant due to absences, purportedly due to transportation issues. *Id.* at 243.

Further, Ms. Goodall herself testified that the day she last used illegal drugs was around June 16, 2023. *Id.* at 443. Upon review of the record, it is clear that Ms. Goodall has struggled with a methamphetamine abuse disorder, as well as abuse of other substances, since the children's adjudication in 2021. While she has been able to maintain brief stints of sobriety, Ms. Goodall has not been engaged with substance abuse services in a consistent and meaningful way ever since she agreed to the ISP in April 2022. Most notably, there is a large lapse of time from November 2022 to June 2023 in which she was not engaged in substance abuse treatment in any way. Further, her attendance at Gateway was sporadic, and included a drug test that indicated it had been tampered with as well as an administrative positive from Ms. Goodall's failure to appear for the urinalysis. Not only did Ms. Goodall fail to engage with substance abuse services more than thirty days after her ISP (it appears it took roughly six months before she attempted to start at Gateway in 2022), but she failed to meaningfully engage in any substance abuse program until some two months before trial and notably, roughly a year and three months after agreeing to the ISP. Even still, while Ms. Goodall has started services with OFFI, as of trial she was non-compliant with services. Thus, there was sufficient evidence in the record for a reasonable juror to conclude that she has failed to correct the condition of maintaining a drug

free home and refraining from using illicit substances and termination was proper on that basis as well.

Adequate Shelter

Ms. Goodall was also adjudicated on failure to maintain a safe or sanitary home. She argues now that while the state presented evidence of a “messy, cluttered home with some structural elements of disrepair” it failed to present witnesses who had personal knowledge of the condition of the home at removal or the condition of the home that Ms. Goodall lived in at the time of trial. *Brief-in-Chief*, pg. 18.

DHS case worker, Amy Kemp, testified that she conducted a visit to Ms. Goodall’s residence in February 2023. She detailed that the front yard of the home was covered in debris. Tr. Vol. II, 326. She also testified that she had to crawl to get into and walk through the living room. *Id.* She noted that in order to get to the kitchen she had to climb over boxes, obstacles, and furniture. *Id.* The kitchen had open tins of paint and there were chemicals, cleaners, plaster, etc. on a counter, well within the reach of the small children. *Id.* at 327. Finally, she stated that due to the chemicals, the potential fire hazards with all of the objects blocking entry and exit, and the recent foundation shift in the home, it was a dangerous place for anyone to be living, let alone children. *Id.* at 328. The state also entered several photos into evidence depicting the status of the home through Amy’s testimony.

The children’s older brother, Danny, who was nineteen at the time of trial, also testified about the conditions of the home that the children were removed

from. Danny observed these conditions personally because he too lived there before moving to his aunt's house upon turning sixteen. *Id.* at 295. Danny testified that when he was living in the house there were holes in the floor. *Id.* at 297. He added that the holes were big enough to have a foot fall through. *Id.* Danny also testified that he fell through their porch and injured his knee when he was still living there in 2019. *Id.* at 298. Further, Danny noted that he saw the house Ms. Goodall and Mr. Davis lived in six months before trial and stated that its condition had gotten worse as there was more clutter in the yard and there were more holes in the floor. *Id.* at 303. Destiny, the children's older sister, who was sixteen or seventeen at the time of trial, corroborated Danny's testimony. She testified that the house, while she was living there with K.G and J.G., was in terrible condition. *Id.* at 310. She also noted that there were holes in the floor, the porch was falling in, and there were various items stacked up throughout the house. *Id.*

Ms. Goodall also testified about the nature of the home. She testified that the pictures introduced by the state did not depict the house that the children were removed from. She also claimed that they were not living in the home that the pictures were taken in February of that year. Rather, they were cleaning up that house and living in another trailer on the property. *Id.* at 424. Ms. Goodall introduced pictures of the home that Ms. Kemp had visited previously, and the pictures show a much cleaner and organized living space. However, the photos were taken by Ms. Goodall the Sunday before trial and were not even sent to her counsel or counsel for the state until trial had already started. *Id.* at 434.

Ms. Goodall argues that the state failed to present evidence regarding the current state of the home because Ms. Kemp only visited in February. However, Ms. Kemp was asked on cross examination if she had learned in the last seven months that Ms. Goodall was no longer living in the home the children were removed from. *Id.* at 342. She responded, "I asked her [Ms. Goodall] at visitation where are you staying. She told me the trailer. If it was different, I didn't know." *Id.* Further, Ms. Kemp added that Ms. Goodall never called to inform her that she had moved and never sent pictures of a clean or new dwelling. *Id.* She testified that Ms. Goodall would call to inform her that she had cleaned the house up and asked her to go look. Ms. Kemp testified that she would go look, but each time she visited it still was not clean. *Id.* at 358-59. She also clarified that she saw both trailers that Ms. Goodall was back and forth between when she conducted her visit in February 2023 and described both accommodations as unlivable, filthy, and deplorable. *Id.* at 359.

Regardless of whether Ms. Goodall was living in the home that Ms. Kemp visited and photographed or the trailer, apparently both were in an unlivable condition, especially for small children. Further, Destiny and Danny both testified about the conditions that they endured while living with their parents and K.G. and J.G. such as large holes in floors, items piled high around the home, and even suffering injuries as a result of home conditions.

We also find that evidence related to domestic violence is probative as to the issue of a safe home environment. As discussed above, because there was no adjudication as to domestic violence, Ms. Goodall cannot be charged with having

failed to correct that condition. However, we find that evidence related to domestic violence is also relevant to Ms. Goodall's ability to provide a safe home environment for her children and therefore, we will discuss it here.

DHS was made aware of the prospect of domestic violence occurring in the home when a family member reported to DHS that "mom and dad were in the front yard punching each other." See Tr. Vol. I, pg. 183. As a part of her ISP, Ms. Goodall agreed to contact a domestic violence agency approved by OKDHS to schedule an intake and begin services within thirty days of signing the ISP, which was April 2022. DHS caseworker, Ms. Dillman, testified that as of August 2022, Ms. Goodall had not been engaged with domestic violence services at all. *Id.* at 171. Around October 2022, Ms. Dillman testified that Ms. Goodall had attended around six sessions, but also said that the classes were "useless to her because she wasn't a battered woman and she wasn't beaten and she didn't understand why she had to work those services." *Id.* at 175. Ms. Dillman clarified that the departments concern was that mutual combat was occurring between Ms. Goodall and Mr. Davis. *Id.* Later, in December 2022, Ms. Goodall reported to Ms. Dillman that Mr. Davis was to blame for all of their domestic violence issues. *Id.* at 176. It is unclear from the record exactly when Ms. Goodall stopped attending domestic violence classes. She testified that she stopped attending due to transportation issues and her house burning down. Tr. Vol. II, pg. 451. However, it does not appear that Ms. Goodall re-engaged with any domestic violence services at all during 2023, even as trial started in September 2023. She acknowledged that domestic violence services were not offered by Gateway or

OFFI and that she would have to start over since she had obtained so many prior absences but did not testify about any specific plan to enroll in a domestic violence program.

In addition to Ms. Goodall's failure to meaningfully engage with domestic violence services as required by her ISP, there was also evidence introduced regarding a physical altercation between herself and Mr. Davis that occurred roughly three months before trial. Destiny testified about an instance where Ms. Goodall and Mr. Davis were screaming at each other so loud she could hear it from inside her aunt's house, which was two doors down, so she went over to the house to see if she could help resolve things. *Id.* at 313. She testified that she saw Mr. Davis standing at the end of the road with a bag of clothes and Ms. Goodall was in a van with the back window busted out. *Id.* Mr. Davis informed her that Ms. Goodall had shattered the window. He also showed her the injuries he sustained as a result of this altercation, which was bruising and bite marks on his back. *Id.* at 314. Mr. Davis corroborated Destiny's testimony later at trial. *Id.* at 492. Mr. Davis did not report this incident to law enforcement or DHS specifically because he knew the incident of domestic violence would impact their ability to be reunited with their children. *Id.* at 314.

Upon review of the evidence presented, it is clear that Ms. Goodall failed to provide or maintain a safe and/or sanitary home for her children and failed

to correct that condition within the appropriate time frame. Thus, termination was also proper on that basis.²

Best Interests

Lastly, Ms. Goodall argues that the trial court erred in terminating her parental rights as it was not in the best interests of her children. She focuses on the fact that DHS did not exercise reasonable efforts to reunite her with her children and that she was not given enough time to complete her ISP before the state filed its motion to terminate. The jury heard ample evidence regarding Ms. Goodall's failures to meaningfully engage with various services required in her ISP until a few months before trial. Thus, while the ISP was signed in April and the motion to terminate was filed in August, it is clear that more time is not what Ms. Goodall needed in this case. Ms. Dillman testified that in August of 2022 she held a family planning meeting and Ms. Goodall did not attend. Tr. Vol I, pg. 172. She also testified that Ms. Goodall had not started any of her treatments or services, only Mr. Davis had started substance abuse treatment. *Id.* Later, at another family planning meeting in December 2022, Ms. Dillman testified that

² The jury also found that termination was appropriate under 10A O.S. § 1-4-904(B)(15), which requires, as relevant here, "[a] finding that there exists a substantial erosion of the relationship between the parent and child caused at least in part by ... an unreasonable failure by the parent to visit or communicate in a meaningful way with the child." Because we find that termination was appropriate under subsection (B)(5), and only one statutory ground is needed to support termination, we decline to review whether termination was also appropriate under subsection (B)(15).

she had been talking to Ms. Goodall about other permanency options aside from reunification because DHS was not seeing conditions corrected. *Id.* at 171.³

Ultimately, the children were removed from the care of Ms. Goodall in December 2021, giving her twenty-one months before trial to correct any substance abuse issues and to provide safe and sanitary shelter for her children. Notably, even from the date of the ISP to trial, Goodall had roughly sixteen months to correct conditions. The jury heard testimony about a physical altercation three months before trial and Ms. Goodall only attended six domestic violence classes in 2022. Additionally, the jury heard that while Ms. Goodall had made progress regarding substance abuse treatment in the three months preceding trial, she had a relapse right before those three months, an administrative positive test as well as a drug test that had been tampered with in 2022, and some seven months between service providers that are entirely unaccounted for regarding progress with substance abuse. Further, the jury heard from Danny and Destiny who testified about unsafe home conditions unfit for children, and it heard from Ms. Kemp, who personally observed an unlivable home and trailer at a visit in February of 2023, fourteen months after removal and ten months after the ISP. It is clear that Ms. Goodall had more than enough time to make meaningful progress and even could have completed services if she had started them in time. However, she did not.

³ Somewhat confusingly, at trial Ms. Goodall testified that she did not know Ms. Dillman, had never spoken to her, and that the first time she saw her was in court. Tr. Vol II, pg. 463.

Ms. Goodall, caseworkers, and service providers testified at length about her transportation issues as a barrier for her to start and continue services in 2022 and into 2023; however, Ms. Dillman testified that Ms. Goodall was offered help with transportation multiple times, and she declined. *See* Tr. Vol I, pg. 182. Ms. Goodall contends that Ms. Dillman and other DHS caseworkers indicating that she had been offered rides are “liars.” Tr. Vol II, pg. 462. Regardless, we again note that this case began in December 2021, Ms. Goodall had ample time to find a solution to transportation issues. Additionally, the record was devoid of specific instances in which Ms. Goodall reached out for assistance with transportation and was denied it in any way by DHS.

In summary, Ms. Dillman testified that the children would be at serious risk of emotional or physical harm if they were allowed to return to the custody of Ms. Goodall. Tr. Vol I, pg. 177. Destiny Goodall agreed. Tr. Vol II, 314. Danny testified that the children would be at serious risk of emotional harm if allowed to return to the care of Ms. Goodall. *Id.* at 299. Amy Kemp testified that Ms. Goodall has not demonstrated the behavioral changes necessary to show there is no longer a safety threat for the children. *Id.* at 332. Amy also testified that K.G. and J.G. would be in danger of threat of emotional or physical harm if returned to the care of their mother. *Id.* Finally, when asked about the deterioration of her relationship with her children, Ms. Goodall blamed it on DHS, and remained unable to take responsibility for her actions and at times inaction as it pertained to her children. *Id.* at 476. Upon review, we find that a reasonable juror could have found that the state presented clear and convincing

evidence that termination of Ms. Goodall's rights as a parent was in the best interests of K.G and J.G.

Based on the foregoing, we affirm the trial court's termination of Ms. Goodall's parental rights as to K.G. and J.G., entered upon the jury's verdict for termination.

AFFIRMED.

HUBER, P.J., and HIXON, J., concur.

October 11, 2024