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IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF M.C., M.C., &)
N.C., alleged deprived children:)

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

KEVIN CREHAN,

Appellant,

vs.

THE STATE OF OKLAHOMA,

Appellee.

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JOHN D. HADDEN
CLERK

Case No. 122,384

APPEAL FROM THE DISTRICT COURT OF
GRADY COUNTY, OKLAHOMA

HONORABLE Z. JOSEPH YOUNG, ASSOCIATE DISTRICT JUDGE

AFFIRMED

Keenan P. Haught
PALMER LAW
Hinton, Oklahoma

For Appellant

Michael J. Turner
ASSISTANT DISTRICT ATTORNEY
Chickasha, Oklahoma

For Appellee

OPINION BY GREGORY C. BLACKWELL, JUDGE:

Kevin Crehan, father to M.C., M.C., and N.C., appeals the court's order establishing his step-sister, Kristen Ford, as permanent guardian of all three minor children. Upon careful review of the record, we find that the permanent guardianship is in the best interests of the children and thereby affirm.

BACKGROUND

In February 2023, DHS removed all three minor children from the home of Mr. Crehan and placed them with Ms. Ford. The state later filed a petition to adjudicate all three children¹ as deprived on the basis of threat of harm, possession and use of illegal drugs and addiction, and domestic violence.² On June 13, 2023, the court entered an order adjudicating the children deprived as to Mr. Crehan. In July 2023, Mr. Crehan agreed to an Individualized Service Plan (ISP) which required him to engage in various services for substance abuse, domestic abuse, parenting classes, and other mental health programs.

The court held two different permanency review hearings, one in October 2023 and one in January 2024. Following the second hearing, the children's attorney filed a motion to establish a permanent guardianship in favor of Ms. Ford.³ The case proceeded to two-day bench trial on that issue, held on May 21 and June 7, 2024. The court heard testimony from Ms. Ford, Mr. Crehan, a DHS caseworker, and a tribal caseworker.⁴ The court entered an order establishing

¹ A fourth child, M.W., was also adjudicated deprived as to Mr. Crehan, although he was the guardian, not the father of M.W. The court terminated Mr. Crehan's guardianship over M.W. the same day the guardianship order that is the subject of this appeal was entered. No decision regarding M.W. is presented in this appeal.

² The record reflects that an adjudication order was first entered on May 2, 2023, after Mr. Crehan failed to appear. The court later granted a motion to vacate that judgment.

³ That same day, the state filed a petition to terminate Mr. Crehan's parental rights. It was apparently agreed to by all parties to proceed first with the guardianship proceedings. The state supported the guardianship at trial and in this appeal.

⁴ All three minor children are Indian children. See 25 U.S.C 1903(4) and 10 O.S. 40.2.2. However, no part of this appeal relates to the unique standards for Indian children set forth in the Indian Child Welfare Act.

Ms. Ford as the children's permanent guardian on July 8, 2024. Mr. Crehan appeals.

STANDARD OF REVIEW

A petition for kinship guardianship, "requires that the district court's determination be supported by the 'clear and convincing' level of proof." *In re C.L.D.*, 2010 OK CIV APP 54, ¶ 9, 238 P.3d 966, 969 (citing the predecessor to 10 O.S. § 1-4-709). "Our review on appeal must also demonstrate the presence of clear and convincing evidence to support the trial court's decision." *Id.* (citing *In re S.B.C.*, 2002 OK 83, ¶ 7, 64 P.3d 1080, 1083). "We will reverse a guardianship order only if it is clearly against the weight of the evidence or contrary to law." *In re Guardianship of Holly*, 2007 OK 53, ¶ 19, 164 P.3d 137, 143.

ANALYSIS

On appeal, Mr. Crehan argues only that the court's order establishing permanent guardianship for his three minor children should be reversed because the state and the child's attorney failed to introduce clear and convincing evidence that the guardianship was in the children's best interest. Title 10A O.S. § 1-4-709(A) provides that the court "may establish a permanent guardianship between a child and a relative or other adult if the guardianship is in the child's best interests" and eight different conditions are satisfied. Mr. Crehan does not argue that any of the eight conditions were not satisfied, but only that there was not clear and convincing evidence that a permanent

guardianship is in the best interests of the children. Thus, this is the only issue we will address.

We note first that this is not Mr. Crehan's first deprived case as to these children and that the first case stemmed from the same issues as the current case. For example, DHS caseworker, Angela Diaz De Rojero, testified that DHS became involved in Mr. Crehan's first deprived case roughly five years ago. Tr. (May 21, 2024), 76. She testified that the children were adjudicated deprived in Caddo County on October 25, 2018, and that the final permanency order in that case was not entered until January 27, 2022. *Id.* at 57-59. She added that the children were only in Mr. Crehan's custody for thirteen months between the date the first deprived case began and the date of trial. *Id.* She also testified that the issues in the prior case were possession and use of illegal drugs, addiction, and domestic violence. *Id.* at 67. The only difference between the two cases is that threat of harm was added to the present case. *Id.* Although not all originally placed with Ms. Ford, eventually all three children were placed in her care until trial reunification began in the Caddo County case. *Id.* at 62.

Ms. Ford testified that even when the children were returned to the care of Mr. Crehan for trial reunification, she still cared for them substantially. For example, Mr. Crehan was working in a city that was a few hours away, so he would drop the children off with her at 4:00 a.m., they would go to their rooms and lay down, she would later get them up and ready for school, take them to school, and take them to their after-school activities. *Id.* at 40. He would return around 7:00 or 8:00 p.m. to take them home. *Id.* Eventually, Mr. Crehan and the

children moved in with Ms. Ford. *Id.* at 43. Thus, it appears even in their thirteen months stay with Mr. Crehan, the children's primary caregiver was still Ms. Ford.

It appears that Mr. Crehan's progress as related to his ISP was minimal at best. Ms. Diaz De Rojero also testified that as of the date of trial, May 21, 2024, Mr. Crehan had not addressed his problems with domestic violence at all and had not reported to complete his Domestic Violence Inventory (DVI) which functions as an initial assessment. *Id.* at 67-68. Notably, Mr. Crehan was required to engage with domestic violence services after the children described an incident where he pushed the children's mother off the porch and into a metal pole. R. 162. This incident occurred after Mr. Crehan had been ordered to not have contact with the children's mother as a result of the prior deprived case. *Id.* While there were no documented incidents of violence regarding the children, an ISP progress report details an erratic incident in which Mr. Crehan noticed Ms. Ford and the children driving past him in the street and he began yelling and chasing after them. R. 212.

Ms. Diaz De Rojero also testified that while Mr. Crehan had started addressing some of the mental health issues and was recommended by a therapy group to attend individual sessions, as of May 2024, he had only attended five out of sixteen sessions and had not attended during the months of March or April. Tr. (May 21, 2024), 68. She added that in early May he had to be reassessed due to lack of participation. *Id.* Mr. Crehan had only attended half of his required relapse prevention groups and attended five moral reconnection therapies. *Id.* at 69. She added that Mr. Crehan had checked himself in to

inpatient rehab around April 8, 2024, and by the 21st of April he was back at home. *Id.* at 70. Mr. Crehan later clarified that the program was intended to be a sixty-day detox. Tr. (June 7, 2024), 37. Ms. Diaz De Rojero also noted that he had been removed from the moral reconnection therapy because he accrued three absences in a row. Tr. (May 21, 2024), 71. Regarding Mr. Crehan's parenting classes, Ms. Diaz De Rojero testified that he had completed ten classes; however, the last class that he attended he was asked to leave due apparently being under the influence of marijuana. *Id.* at 71; Tr. (June 7, 2024), 28.

Mr. Crehan himself testified that he used methamphetamine as recently as April 9, 2024, Tr. (June 7, 2024), 27, which was after he had been served with the motion to terminate his parental rights and the motion for permanent guardianship and notably, roughly six weeks before trial. He also testified that he has manic depression which is not currently being treated. *Id.* at 28, 34-35. He also testified that he has diabetes and that he does not "do it the way he should," *id.* at 21, implying that he was not and had not previously been receiving proper care for his diabetes. In fact, he detailed an experience where he "bottomed out" due to his blood sugar, he could not be woken up, and he had to be taken to the hospital. *Id.* Additionally, Mr. Crehan still has pending criminal charges, namely one for public intoxication. When asked if he had a plan for his children if he had to spend more time in jail, he gave the following response, which we quote unmodified from the transcript:

Well, we're not gonna work off, like the mediator told, hence the soon-to-be foster parent earlier, that he—they were not gonna work on ifs, ands, buts and what might happen, but we're gonna work on

tangible facts. And so, I mean, tangible facts is, I haven't been to prison since 2017 and this whole stint that I going on with the misdemeanor criminal court, yeah, I did—you know what I mean.

It was hard for me to understand why they were trying to arrest me when I was calling for help and that woman was breaking all my stuff and I had all this extensive history with her being violent and her—and stuff. Why they—why they wouldn't help me when I called.

Id. at 30.⁵

Ms. Diaz De Rojero also described Mr. Crehan's contact with the children as "sporadic." *Id.* at 63. Ms. Diaz De Rojero's reports detail several instances from May 2023 to April 2024 where visitation was cancelled due to Mr. Crehan's inability to confirm or attend even on days where he did confirm that he would attend visitation. R. 122-126. The reports also detail several interactions where caseworkers were unable to call Mr. Crehan or visit him at his home, interactions in which Mr. Crehan appeared to be under the influence or high,⁶ and several instances where Mr. Crehan did not take responsibility for his own actions, instead blaming the police, caseworkers, and his step-sister as a foster parent for taking away his kids.

Finally, regarding Ms. Ford's fitness as guardian for all three minor children, Ms. Diaz De Rojero also testified that the children have formed a close, loving relationship with Ms. Ford and that they can depend on her for all of their

⁵ At this point, Mr. Crehan's counsel intervened to remind his client of his constitutional right against self-incrimination.

⁶ We note that Mr. Crehan apparently has a medical marijuana card. He testified that he uses it to sleep at night. However, in the reports he was observed to have been under the influence during the day and during visitation, presumably during times when, if not for this case, he would be actively caring for his children.

basic necessities. Tr. (May 21, 2024), 77. She also affirmatively testified that it is in the best interests of the children for the guardianship to be granted. Tr. (June 7, 2024), 6. Ms. Tessa Lonewolf, with the Wichita Tribe, also testified about her involvement in the prior deprived case as well as the present one. She testified that the children's current placement is ICWA compliant, that returning the children to Mr. Crehan's care would result in serious emotional or physical damage to the children, and that it is in the best interests of the children to remain placed with the guardianship with their aunt. *Id.* at 13-15. Ms. Ford herself testified that she loves the children, that she has been caring for them since 2018, and that she believed it was in their best interest to be appointed their permanent guardian. *Id.* at 44-46. Under Ms. Ford's care the children are receiving As and Bs at school, are involved with sports, and all CASA and DHS progress reports in the record indicate the children are thriving in their current environment and it would also be their preference to remain in the care of Ms. Ford.

While Mr. Crehan has made progress since the beginning of this case by completing some classes required by the ISP, obtaining housing a week before trial, and working six days a week, it is clear based on the evidence presented by the state and the children's attorney that a permanent guardianship is in the children's best interest. Mr. Crehan's children have now been adjudicated deprived twice on the basis of domestic violence and substance abuse. Mr. Crehan had not completed a DVI or any domestic abuse treatment as of trial. While he had started some other classes and services, none were completed

despite having almost a year from the date of the ISP to complete them, which he signed and agreed to in July 2023. Additionally, Mr. Crehan last used methamphetamine roughly six weeks before trial first began and very soon after receiving the motion to terminate parental rights and the motion for permanent guardianship. Based on testimony and DHS reports, Mr. Crehan was also consistently observed to be high or under some kind of influence during visitation, DHS visits, and even a parenting class, which he was subsequently removed from. Mr. Crehan's children have only been in his care for thirteen months out of roughly the last five years, and even during those thirteen months Ms. Ford substantially provided for the children. Ms. Ford loves the children and she, along with the DHS and tribal caseworkers, testified at length about her willingness and ability to become a permanent guardian for the children. Thus, we find that there was clear and convincing evidence that the permanent guardianship is in the best interest of the children.

AFFIRMED.

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

December 13, 2024