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COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

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IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

IN THE MATTER OF: A.H., B.H.,)
B.D., & H.H., Alleged Deprived)
Children,)
DARRIELLE DULANEY,)
Appellant,)
vs.)
STATE OF OKLAHOMA,)
Appellee.)

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Case No. 122,780

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE MARK McCORMICK, TRIAL JUDGE

AFFIRMED AND REMANDED WITH DIRECTIONS

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For Appellant

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For the Children

OPINION BY JANE P. WISEMAN, PRESIDING JUDGE:

Darrielle Dulaney (Mother) appeals a trial court order terminating her parental rights to her minor children, BH, AH, BD, and HH. The issues on appeal are whether the State of Oklahoma proved both the statutory ground for termination by clear and convincing evidence and that termination of Mother's parental rights is in the children's best interest. We conclude that State met its burden, and Mother was not denied a fair trial. We affirm the trial court's order terminating Mother's parental rights, but we remand the matter to the trial court to correct the order to remove the finding of "Other" from the list of uncorrected conditions.

FACTS AND PROCEDURAL HISTORY

In May 2023, State filed a petition to adjudicate BH, born in October 2020, and AH, born in September 2021, deprived as to Mother and Kennard Rose.¹ State

¹ Kennard Rose, father of AH, BH, and HH, voluntarily consented to the termination of his parental rights and the trial court entered an order terminating his parental rights on May 16, 2024.

alleged the children are deprived as to Mother for failure to provide them with the proper parental care and guardianship necessary for their physical and mental well-being, for exposing them to domestic violence, for concerns about Mother's mental health, and the existence of a threat of harm. The order to take AH and BH into emergency custody stated that the children had been with a temporary guardian, Rockell Williams, but Williams no longer wants to be a guardian. The order states that neither Mother nor Rose completed DHS-recommended services. The court requested that DHS pick up the children.

An order to take BD, born in April 2016, into emergency custody was filed on June 7, 2023. The order states that, although Mother's mother was BD's temporary guardian, BD was living with Mother. Due to concerns for BD's safety while living with Mother, the court requested that DHS pick up BD.

State filed an amended petition seeking to adjudicate AH and BH deprived as to Mother and Rose and to adjudicate BD deprived as to Mother and BD's alleged father, Johnny Dukes.² State claims all three children are deprived as to Mother for failure to provide proper parental care and guardianship, domestic violence, mental health issues, and threat of harm.

Mother stipulated to the deprived petition acknowledging "domestic

² Johnny Dukes voluntarily consented to the termination of his parental rights and the trial court entered an order terminating his parental rights on March 7, 2024.

violence,” “mental health issues,” “lack of proper parental care and guardianship,” and “threat of harm.” Mother’s Individualized Service Plan (ISP) requires her to complete an assessment for a non-offender’s domestic violence program and to follow all recommendations, and further mandates that she “will be able to acknowledge and assess when anger or abusive behavior methods are becoming potentially harmful or unsafe to her children and family.” She must also “be able to deal with any of her personal stressors without [resorting] to substance [sic], alcohol, or domestic violence.” The ISP requires Mother to complete a mental health evaluation and follow any recommendations in order to provide an emotionally stable environment for herself and her children. She must provide her children with a safe and stable home. Mother is also required to participate in comprehensive home-based services when the children return home, participate in a parenting education program, visit the children, sign releases, maintain contact with her case worker, and attend court hearings and family team meetings.

HH was born in March 2024, and the trial court entered an order on March 26, 2024, finding that he should be taken into emergency custody.

On April 2, 2024, State filed a second amended petition to add HH to the termination petition. State alleged all four children are deprived and sought to terminate Mother’s parental rights to AH, BH and BD, pursuant to 10A O.S. § 1-4-904(B)(5) for failure “to correct conditions of lack of proper parental care and

guardianship, domestic violence and/or physical violence, mental health, and threat of harm, which led to the deprived adjudication of her children” after she was given at least three months to correct the conditions. State alleged HH is deprived and sought to terminate Mother’s parental rights to HH “pursuant to 10A O.S. §1-4-904(B)(14) for failure to correct conditions of a previous deprived adjudication.” (Emphasis omitted.)

A trial was held in December 2024. After trial, the court found Mother failed to correct the conditions of “exposure to domestic abuse,” “lack of proper parental care and guardianship,” “threat of harm,” and “Other SEE PETITION.” The court found Mother had been given not less than three months to correct those conditions. The trial court also found AH, BH and BD were previously adjudicated deprived as to Mother for “lack of proper parental care an [*sic*] guardianship, domestic violence and/or physical violence and threat of harm.” (Emphasis omitted.) The court found the conditions of “lack of proper parental care and guardianship, domestic violenc [*sic*] and or physical violence and threat of harm have reoccurred and remain uncorrected.”³ (Emphasis omitted.) The court further found that it is in the children’s best interest for Mother’s parental rights to

³ According to the trial court, HH was adjudicated deprived on May 13, 2024, in connection with the termination of Rose’s parental rights.

be terminated. The trial court terminated Mother's parental rights pursuant to 10A O.S. § 1-4-904(B)(5) & (B)(14).

STANDARD OF REVIEW

"[B]efore a state may sever the rights of parents in their natural child, the state must support its allegations at trial *by at least clear-and-convincing evidence.*" *In re S.B.C.*, 2002 OK 83, ¶ 5, 64 P.3d 1080. In reviewing a trial court's decision to sever a parental bond, we must search the record "for the presence of clear-and-convincing proof." *Id.* ¶ 7. This means that "[w]e must canvass the record to determine whether the evidence is such that a factfinder could reasonably form a firm belief or conviction that the grounds for termination were proven." *In re C.D.P.F.*, 2010 OK 81, ¶ 6, 243 P.3d 21.

We review denial of due process claims in termination cases *de novo*, *In the Matter of J.L.O.*, 2018 OK 77, ¶ 26, 428 P.3d 881, without deference or regard to the trial court's reasoning or result.

ANALYSIS

Title 10A O.S.2021 § 1-4-904(A) provides, "A court shall not terminate the rights of a parent to a child unless: 1. The child has been adjudicated to be deprived either prior to or concurrently with a proceeding to terminate parental rights; and 2. Termination of parental rights is in the best interests of the child."

Additionally, one of the legal grounds in subsection B must be proven. State sought to terminate Mother's parental rights to AH, BH and BD pursuant to 10A O.S.2021 § 1-4-904(B)(5), for failure to correct the conditions which led to the deprived adjudication of the children after she was given at least three months to do so, and to HH pursuant to 10A O.S.2021 § 1-4-904(B)(14) for failure to correct conditions of a previous deprived adjudication.

I. State demonstrated by clear and convincing evidence a statutory basis for terminating Mother's parental rights.

Mother asserts State failed to establish a statutory ground for termination of her parental rights by clear and convincing evidence. The trial court found Mother failed to correct the following conditions: "exposure to domestic abuse," "lack of proper parental care and guardianship," "threat of harm," and "Other SEE PETITION." After review, we find that the trial court's decisions as to the failure to correct the conditions of "exposure to domestic abuse," "lack of proper parental care and guardianship," and "threat of harm" are supported by clear and convincing evidence.

A. Domestic Violence

Mother asserts State did not establish she was in a relationship with Rose or that he continued to pose a threat to Mother and children as she was not in a relationship with him. She further asserts, "The evidence presented regarding future relationships or threats against [Mother] and her children was mere

speculation.” She acknowledges she has been exposed to domestic violence in the past but asserts, “there is plenty of evidence from [Mother] that she understood the threat.” She continues, “But there was only speculation that [she] was or would be involved in the future with Mr. Rose.” Mother maintains she completed an assessment for domestic violence, a domestic violence program, and participated in individual therapy as required by her ISP. She also asserts she implemented positive changes from what she learned in parenting classes and therapy.

Even if Mother completed every requirement of her ISP, this alone does not mean she corrected the conditions which led to the children being adjudicated deprived. “Compliance with the ISP alone is not sufficient to regain custody.” *In re C.M.*, 2018 OK 93, ¶ 23, 432 P.3d 763 (citing *In re B.C.*, 2010 OK CIV APP 103, ¶ 9, 242 P.3d 589). In *B.C.*, the Court explained, “The ISP serves as the mechanism for guiding the parent in correcting the condition in order to provide the child with a safe home.” *B.C.*, 2010 OK CIV APP 103, ¶ 9. While a parent’s “[f]ailure to comply with the ISP, in itself, is not grounds for termination . . . compliance with the ISP is not in itself sufficient to regain custody of the child.” *Id.* “Correcting the condition leads to reunification, while failure to correct it leads to termination.” *Id.*

A DHS worker described the domestic violence Rose inflicted on Mother as severe. Mother testified Rose’s violence toward her “started off as strangulation,”

but “it ended up being closed fist later on.” Mother said she sustained two concussions as a result of the domestic violence. Rose abused her while she was pregnant, and the abuse did not stop until Rose went to jail. BD witnessed some of the abuse, and Mother taught BD to go to her room, lock her door, and call 911. Mother testified Rose sexually assaulted her, and as a result she got pregnant with BH. She testified BH and AH were also exposed to domestic violence.

Angeliesha Little, a child welfare specialist supervisor who worked on Mother’s case from July 25, 2023, through February 29, 2024, explained Mother worked a family-centered services case before court involvement due to concerns of domestic violence, mental health, and lack of proper shelter. Mother had the opportunity to work voluntary services before the case was referred for adjudication, but her engagement in these services was “inconsistent or did not exist prior to adjudication.” After the children were placed in DHS custody, Mother participated in services required by her ISP.

Although Mother completed a non-offender’s domestic violence program and received a certificate, Little did not see a behavioral change related to domestic violence because she understood that Mother was still seeing Rose and she had a domestic dispute with a family member. DHS was “[s]till seeing the same engagement in unsafe environments, and unsafe people.” The children were never returned to Mother because she did not change her behavior.

Little testified “that a number of individuals were calling [the apartment office staff] to identify her residence there, because of the social media following.” Mother also “want[ed] to move locations of family time because of her following, stalking and making threats to her.” These situations caused DHS to have safety concerns for the children. DHS discussed these concerns about social media use with Mother, but she responded that she relied on social media as her source of income. Little testified there were two court orders for Mother not to talk about the children on social media, but Mother did so anyway.

Tim Harvey, a DHS child welfare supervisor and permanency worker, supervised the family’s case until October 2024. He testified that there was a period when Mother was open and honest about the domestic violence that had occurred, and she had ceased her relationship with Rose. But Mother reengaged in the relationship as evidenced by the texts and a picture of Mother and Rose together at her criminal case. A third incident of Mother and Rose being together on a trip to Walmart was reported by AH, BH and their foster mother and was conveyed to Harvey in September 2024.

State presented evidence of multiple incidents of Mother being in contact with Rose after the petition was filed, including just several months before trial. Jessica Hutchinson, the court-appointed special advocate (CASA), attended a court proceeding for Mother’s unrelated assault and battery case in Oklahoma City in

May 2024 and saw Mother and Rose “cuddled up on the bench” at the courthouse. Hutchinson also observed text messages in May 2024 on Rose’s phone after the phone was handed to her by BH’s and AH’s foster mother.

Mother admits texting Rose but claimed that she was manipulating him to help her with the assault and battery case involving her cousin. She admitted she told Rose she loved him and said, “Wait until this case is over, baby,” but said she “was just talking.” She explained Rose went to court with her as a witness in connection with those charges and was comforting her. She also admitted speaking to Rose while he was in jail on charges related to his abuse of her.

Hutchinson testified she believed Mother and Rose were still in a relationship because she was told by AH’s and BH’s foster mother that Mother and Rose had an altercation in a Walmart. BD also told her that in June 2024 she found men’s underwear and men’s products in Mother’s bathroom and shower. Hutchinson also testified that Mother was making calls to Rose while he was in jail for domestic violence.

Jherra Martin, a child welfare specialist worker on Mother’s case, testified she saw Mother and Rose in a car together in July 2024. Mother was driving and Rose was in the passenger seat.

Although Mother denied the texts she sent Rose were indicative of an ongoing relationship with him and denied that BD found a man’s belongings in her

apartment, it was for the trial court to determine witnesses' credibility. "[T]he credibility of witnesses, and the weight to be given to testimony which is in conflict, are questions of fact within the sole province of the trial judge." *In re Adoption of E.S.P.*, 1978 OK 100, ¶ 13, 584 P.2d 209; *see also In re N.A.*, 2025 OK 22, ¶ 27, 567 P.3d 374 (When a "factual dispute turns on the credibility of the witnesses and how much weight ought to be attributed to the testimony," the trial judge who saw the witnesses is in a better position to assess their credibility.). In reviewing a decision to terminate parental rights, "We must canvass the record to determine whether the evidence is such that a factfinder could reasonably form a firm belief or conviction that the grounds for termination were proven." *In re M.R.* 2024 OK 28, ¶ 8, 548 P.3d 120. But we are not required to re-weigh the evidence. *Id.*

State presented evidence that not only was Mother still in contact with Rose, but the evidence of violence and potential violence was not limited to domestic violence perpetrated by Rose. Although Mother asserts she learned and applied what she learned in her ISP, State presented evidence of Mother's own actions regarding threats and violence after she completed her ISP. Hutchinson testified Mother exhibited physical, verbal, and emotional aggression toward BD's foster mother, Imogene Dent, who is Mother's sister. Hutchinson identified Dent as BD's "most consistent and sole provider [f]or her whole life."

Regarding another incident, Hutchinson testified, "In October, [Mother] live streamed on and off for several hours at a park in Midwest City, which was across the street from Mr. Rose's sister, I believe, is what she said. Waiting for [the sister] to come down and fight her. And there was a plethora of other verbiage." During the live stream Mother "was violently angry" and "was yelling and cursing and screaming into the phone camera saying she was across the street from this girl's apartment." Mother was "communicating with this aunt to come down and fight her because she was ready to kick her ass." Mother was involved in a physical altercation with her cousin and found out months later that her cousin pressed charges against her.

During Little's time on the case, she did not see any behavioral changes in Mother based on Mother's time in parenting classes. And Mother's level of engagement in mental health services was inconsistent.

We conclude State presented clear and convincing evidence that Mother failed to correct the condition of exposure to domestic violence. Mother admitted the children were exposed to domestic violence while she was with Rose and that because of that violence, the three older children had been living away from Mother's home for an extended period before they came into DHS custody. State presented evidence from multiple sources that Mother continued to be involved

with Rose on some level. Also, Mother had an altercation with a member of her family and State presented evidence she threatened physical violence to others.

“[A] termination order may be affirmed where only one statutory ground is met.” *In re E.J.T.*, 2024 OK 14, ¶ 15, 544 P.3d 950. State met its burden in this case to prove the statutory ground of failure to correct the condition of exposure to domestic violence. But as discussed below, State also presented sufficient evidence for findings in two other categories.

B. Threat of Harm

Hutchinson also testified that Mother creates a safety risk for the children by posting her location frequently on social media and Mother’s address has been posted on the internet. Hutchinson testified Mother has indicated she is being stalked and is afraid. The evidence at trial also showed there was a threat of harm to the children due to Mother’s use of social media. Hutchinson testified that she spoke with Mother about whether Mother “would be willing to give up social media,” but Mother would not.

The executive director of Hope for the Future, where Mother conducted visitation with the children, discussed her use of social media with her after it was discovered that Mother was live streaming during a visit with the children. Hutchinson stated the visitation was eventually “moved back to the courthouse

from Hope for the Future, due to on-line—what [she] would call threats that [Mother] was making regarding the parties to this case.”

Hutchinson testified that in July approximately an hour or two “prior to our typical Wednesday visit,” Mother “was live streaming from a park talking about how she had complete disregard for what the judge had ordered, not talking about the case.” Hutchinson continued that Mother said:

That everybody knows what today is and what’s happening today. And that she would gladly go to jail with a smile on her face in her mugshot. And that she would um—excuse my verbiage. But that she would fuck up, what I would assume to be [BD’s foster mother] or myself, and our children, and leave them disabled, was her words.

Mother also live streamed a visit with the children in a McDonald’s parking lot.

Mother testified she has stalkers and trolls due to her social media presence. Her mother’s name is on her current lease because of the stalking situation. She claims the people who are stalking her are trolls who do not like her “[b]ecause they feel as though that [she] shouldn’t be asking for help on line.”

There was testimony about other belligerent behavior. During a visit when Mother was at the mall with the children, she told AH that “she was going to beat his ass on two occasions.” Mother yelled at Hutchinson during visitation, asked her what she was looking at, and gave her a “fighting-type gesture.”

We conclude there is clear and convincing evidence that Mother did not correct the condition of threat of harm, not only from Rose but from her online activity that resulted in stalkers and trolls who engendered fear in Mother.

C. Lack of Proper Parental Control and Guardianship

Mother asserts she corrected the condition of lack of proper care and guardianship as she has a safe and stable home and has a part-time job selling merchandise on social media. On appeal, she asserts, "The reason the lease was in her mother's name was to keep Mr. Rose from knowing where she lived, which was what DHS wanted." She claims her current house is appropriate and her visits with children were also appropriate.

Hutchinson, however, testified that Mother "was on time, prepared and/or appropriate" at fewer than half of her visits with the children. Initially, Mother failed to bring a diaper bag or food or drinks for the children to the visits. More recently Mother either failed to bring formula for HH or brought formula that was old and expired.

Little described Mother's engagement during visits with the children as "okay," but there were conflicts because Mother did not want anyone telling her how to raise her children and she did not like some of the workers. Little described Mother as a social media "influencer." There were problems with Mother "going

live during visitation.” Little became aware that Mother was streaming after Little’s voice was heard in videos.

Hutchinson stated that the two-hour visitation time “is a gauge of what you can do on the big picture. And if it’s hard for you when you only see your kids every other week to show up on time, prepared, and be appropriate for a two-hour slot, that gives me great concern.”

Mother also asks for money and displays her Cash App information during her live streams. To Hutchinson’s knowledge, the longest period Mother has been employed during the case was for four to five weeks. Mother’s principal method of obtaining money is online. When asked if Mother sells products, Hutchinson replied, “I believe from what I’ve seen, she does wigs and some other beauty-type products. I’ve seen shorts. And for those items, I believe she gets a portion of the sale, but that’s been very minimal.” Hutchinson said that in the last weeks before the trial, Mother “begged for money to feed her kids at visits.” She continued, “Specifically, an hour or two before the visits happen[], she’s usually online. Most of October, and part of November, requesting money because she needed it to feed her kids.” Hutchinson stated that if she must beg for food before a visit, she wonders how Mother will feed them for the rest of the week.

Mother has not shown she is seeking employment. Little testified Mother

could not provide confirmation of a stable source of income, although she claimed she made \$10,000 or more from social media.

Hutchinson indicated Mother uses the children to garner sympathy on social media. She talks about the case, requests food for visits, and requests money for housing and toiletries and to help get her children back. Mother asked people to donate money for her to hire a new attorney. Hutchinson estimated she spent a thousand hours live streaming over an 18-month period.

Mother testified at trial that she is currently pregnant, and the father does not have any connection with the current case. Mother has been evicted twice, including an eviction from Section 8 housing due to domestic violence. The apartment where she lived at the time of trial is in her mother's name, but Mother pays for it. She pays for her rent and utilities "through social media, Door Dash, and [selling] wigs." Mother admits she asks for money online. She said, "I don't look at it any different than me going into the Food Stamp office asking for help." She admits asking for money online three times to buy food for visitation with the children and soliciting money for an attorney. She said she is having difficulty finding employment that can accommodate her visitation and therapy schedule.

Although Mother claims she can provide the children with a safe and stable home, there is no evidence—other than Mother's testimony—that she has the financial ability to provide for and support the children. She admitted raising

money online to feed the children at visitation, and her apartment is not leased in her name, despite her claims of financial stability. She has not shown any consistent income or the ability to provide a home leased in her name to care adequately for the children or that she could even adequately care for the children during visitation.

II. State demonstrated by clear and convincing evidence that terminating Mother's parental rights is in the children's best interest.

Hutchinson opined that it is in the children's best interest for Mother's parental rights to be terminated. Hutchinson acknowledged Mother loves her children, but as Hutchinson testified, "I felt like [Mother] spent the majority of her time, efforts and energies on the wrong things, and not doing what it would take to bring her kids home." Mother would not work with a parent partner to help her through the process of working her ISP and bringing her children home.

According to Hutchinson, domestic violence is still an issue.

There were multiple DHS employees assigned to Mother's case. Shelly Stranathan, who was assigned to Mother's case in October 2024, testified that DHS recommends termination of Mother's parental rights and that termination is in the children's best interest so they can achieve permanency. DHS workers Little, Martin, and Harvey all testified it was in the children's best interest for Mother's parental rights to be terminated. Martin and Harvey additionally testified the children's best interests would be served by adoption.

Mother emphasizes the bond between her and her children and her love for them and their love for her. She highlights her interactions with her children at visits and asserts they “were great and all the visits went well” with no safety issues or concerns. State, however, presented evidence that Mother was live streaming during visits and that her social media activity presented safety issues because her address was on the internet and individuals were asking her apartment staff whether Mother lived in the complex.

We agree with Mother that Oklahoma law recognizes there is a presumption that a child’s best interest is served by preserving the child’s relationship with his or her parent. Title 10A O.S.2021 § 1-1-102(A)(1) recognizes, “Parents have a natural, legal, and moral right, as well as a duty, to care for and support their children and such rights are protected by state and federal laws as well as the Constitution.” Section 1-1-102(A)(1) continues,

To that end, it is presumed that the best interests of a child are ordinarily served by leaving the child in the custody of the parents, who are expected to have the strongest bond of love and affection and to be best able to provide a child those needed qualities that make a child’s life safe and secure. Nevertheless, this presumption may be rebutted where there is evidence of abuse and neglect or threat of harm

We conclude State rebutted with just such evidence the presumption that it is the children’s best interest to remain in Mother’s care.

DHS took emergency custody of BH and AH in May 2023 and BD in June 2023. The trial took place in December 2024. By that time, these three children had been in DHS custody for 18 to 19 months, and before they were taken into DHS custody, they were all residing with guardians. The testimony at trial showed that AH, BH and BD had not been in Mother's care when they were taken into DHS custody. State's evidence showed BD had been cared for by her current foster mother for most of her life and Rose's mother had taken care of AH and BH for most of their lives. HH was born during the pendency of this case and was taken into DHS custody a few days after birth.

Mother testified Rose subjected her to severe abuse. State presented testimony that despite this, she was still involved with Rose just a few months before trial. Mother also testified that she has stalkers from her social media presence. Both situations raise safety concerns for the children if they were reunited with her.

Mother presented no evidence of her financial ability to care for her children other than her claim that she makes money on social media. She has been evicted twice and her current lease is not in her name.

"[C]lear and convincing evidence is the measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established." *In re C.D.P.F.*, 2010 OK 81, ¶ 5,

243 P.3d 21. After taking into consideration all these factors, we conclude State proved by clear and convincing evidence that the children's best interest will be served by termination of Mother's parental rights so they could achieve permanency after being outside of Mother's custody for most of their lives.

III. Mother failed to show reversible error for a search of Rose's phone.

Mother asserts the trial court did not provide her with a fair trial. She asserts, "The basis of the recommendation to terminate [her] parental right was a text message the DHS worker obtained from Mr. Rose's cell phone." She asserts, "The DHS worker saw a text had come in on [Rose's] cell phone and then the worker pulled down the notification area and the text showed up. She then took a picture of the message and passed it along to her supervisor." She asserts the picture of the messages and the testimony regarding the text should have been excluded from evidence. She admits that there was no objection to the testimony, but this Court should review the admission of the testimony as fundamental error. She asserts the search of Rose's phone was a violation of the Fourth Amendment.

The testimony at trial was not that the DHS worker saw the messages, but that they were brought to the attention of the DHS worker and the CASA worker after the foster parent saw the text messages on Rose's phone and one of them identified Mother's phone number as the number where the text originated.

“Where a party makes no objection to the trial court but raises the issue on appeal, the authority of the appellate court is severely limited.” *In re M.R.*, 2024 OK 28, ¶ 8, 548 P.3d 120. “However, an issue is still reviewable for fundamental error even when no exception has been taken.” *Id.* “Fundamental error occurs when a trial court fails to accurately state the law and compromises the integrity of the proceeding to such a degree that the error has a substantial effect on the rights of one or more of the parties.” *Id.*

Mother admittedly did not object to the *testimony* about the text messages but did object to the admission of the photo of the text messages. Some of the testimony occurred before the introduction of the photo. The objection to the photo of the text message was made regarding who sent the text messages and when they were sent, not that they were obtained as a result of an illegal search or seizure. Mother admitted sending the messages but claimed she was not in a relationship with Rose but was attempting to manipulate Rose into supporting her in an unrelated criminal case.

“A ruling to allow or deny the admission of evidence rests in the trial court’s sound discretion.” *In re K.H.*, 2021 OK 33, ¶ 24, 507 P.3d 647. “[N]o judgment shall be reversed’ because of an ‘error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.’” *Id.* ¶ 25 (quoting 12 O.S.2011 § 78). “For reversal of a ruling that admits evidence, a

substantial right must be affected and a timely objection must have been made.”

Id. (quoting 12 O.S.2011 § 2104(A)(1)).

Although Mother claims fundamental error in admitting the photo of the texts, there was sufficient evidence without admission of the photo demonstrating Mother’s continued affiliation with Rose to support the termination of her parental rights for failure to correct the condition of exposure to domestic violence. Given Mother’s testimony admitting sending the texts, we conclude she has failed to show fundamental error by the trial court in admitting the photo of the texts. Even without considering any evidence of the texts, there was clear and convincing evidence to support the termination of Mother’s parental rights. Accordingly, we conclude Mother has failed to show she was denied a fair trial.

IV. The final order requires revision but not reversal.

Mother asserts the final order terminating her parental rights is deficient because the trial court checked the box “Other” and added a notation to “SEE PETITION.” We agree that the addition of “Other SEE PETITION” is not alone sufficient to support a failure to correct a condition. The “other” condition listed in the petition is mental health and there was not sufficient evidence regarding Mother’s mental health at trial to support a finding of failure to correct this condition as a basis for termination. This error, however, does not dictate that the

order be vacated as there were three other grounds listed which are supported by clear and convincing evidence, as we have found.

In *In re E.M.*, 2019 OK CIV APP 30, ¶ 11, 442 P.3d 1084, another division of this Court found that where an order was fundamentally deficient, precedent “does not prohibit a bench-trial judgment, which is supported by clear and convincing evidence, from being remanded to the trial court, not for a new trial, but with instructions to enter a proper final order correcting the error.” In *In re A.B.*, 2024 OK CIV APP 1, ¶ 17, 542 P.3d 872, another division of this Court sent an order back to the trial court for a “slight revision.”

Using these cases as guidance, we remand this case to the trial court to remove the condition of “Other SEE PETITION” from the final order. Although the order is not deficient, it does contain an extra finding that is not specific enough to support a failure to correct a condition.

CONCLUSION

State presented clear and convincing evidence that Mother’s parental rights should be terminated pursuant to 10A O.S.2021 § 1-4-904(B)(5) & (B)(14). We affirm the order of the trial court terminating Mother’s parental rights. We remand the case, however, for the trial court to correct the order by removing the “Other” finding from the order terminating parental rights.

AFFIRMED AND REMANDED WITH DIRECTIONS.

FISCHER, J., concurs, and BLACKWELL, J., concurs in part and dissents in part.

BLACKWELL, J., concurring in part and dissenting in part:

I respectfully dissent from the Court's remand. In my view, the error of checking the box labeled "other" and writing "see petition" on the final order is harmless in light of evidence in the record sufficient to support a finding that three other conditions were not corrected. *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"). Here, we can acknowledge the error while simultaneously acknowledging that the error does not affect a substantial right because the ultimate result remains the same: the appellant's parental rights are terminated. I would affirm the termination order without any remand, which unnecessarily delays finality for the four children involved. In all other respects, I concur.

September 25, 2025