



# ORIGINAL

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See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF A.C., E.C., M.C., )  
I.C., I.C., H.C., Z.C., & Q.C., Alleged )  
Deprived Children: )

DONTEZ CLAYTON,

Appellant,

vs.

STATE OF OKLAHOMA,

Appellee.

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COURT OF CIVIL APPEALS  
STATE OF OKLAHOMA

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Case No. 123,218

APPEAL FROM THE DISTRICT COURT OF  
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE KAITLYN G. ALLEN, DISTRICT JUDGE

**AFFIRMED**

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Edmond, Oklahoma

For Appellant

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Jaclyn Rivera  
ASSISTANT DISTRICT ATTORNEY  
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For Appellee

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For Children

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

Dontez Clayton, the father of the three minor children at issue in this case, M.C., I.C., and Z.C., appeals the trial court's decision to appoint permanent guardians for the children.<sup>1</sup> Upon review, we find that the guardianship was proper pursuant to § 1-4-709 and that the trial court's finding that the guardianship is in the minor children's best interests is supported by clear and convincing evidence. Accordingly, we affirm.

### I.

M.C., I.C., and Z.C., along with four of their siblings,<sup>2</sup> were taken into custody on March 19, 2019, after Z.C. tested positive for opioids at birth. There were also concerns that the children had been exposed to domestic violence between Mr. Clayton and the children's mother, Jamillah Loughery.<sup>3</sup> DHS also reported substance abuse concerns regarding Mr. Clayton's alcohol consumption.

The state filed a petition alleging that the children be adjudicated deprived, and Mr. Clayton stipulated to the petition on June 10, 2019. The children were adjudicated deprived as to the appellant for the conditions of lack of proper care and guardianship, substance abuse due to alcohol, domestic violence, failure to protect, neglect, failure to maintain a safe and/or sanitary home, and threat of

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<sup>1</sup> Eight children are involved in the deprived proceeding and therefore listed in the caption. This appeal concerns only the father's objection to the appointment of permanent guardians for M.C., I.C., and Z.C.

<sup>2</sup> There were seven children removed in 2019, only three of whom are the subject to this appeal. An eighth child, Q.C., was later born in 2020, after these proceedings were initiated.

<sup>3</sup> The mother's parental rights were terminated as to all eight children on March 8, 2021.

harm. On the same day, the court issued an Individualized Service Plan (ISP) that the appellant signed and agreed to complete.

The state filed several amended petitions requesting termination of Mr. Clayton's parental rights. The sixth and final petition was filed on December 8, 2021, which alleged that Mr. Clayton's parental rights should be terminated for failure to correct the conditions that led to the deprived adjudication and length of time in custody. After a four-day jury trial in March of 2023, the jury determined that Mr. Clayton's parental rights should not be terminated as to all eight children.

The case was transferred to a different judge who continued to hold permanency reviews. DHS, CASA, and other entities involved in the case continued filing reports documenting the children's and Mr. Clayton's progress. On April 3, 2025, the state filed a petition for appointment of permanent co-guardians for four of the minor children: A.C., M.C., I.C., and Z.C. On the same day, the state also filed a separate petition requesting a permanent guardian be appointed for Q.C., the child born in 2020.

On April 22, 2025, Mr. Clayton agreed to permanent guardianships for A.C. and Q.C. However, the appellant contested the appointment of permanent guardians for M.C., I.C., and Z.C., and a hearing was held on the matter April 21-23, 2025. On May 22, 2025, the court granted the petition for permanent guardianship as to M.C., I.C., and Z.C. Mr. Clayton appeals the court's decision to establish a guardianship for those three minor children

## II.

The Court reviews the appointment or termination of a guardian for abuse of discretion. *Matter of Adoption of S.A.H.*, 2022 OK 10, ¶ 11, 503 P.3d 1190, 1194. “An abuse of discretion occurs when a court bases its decision on an erroneous conclusion of law or where there is no rational basis in evidence for the ruling.” *Christian v. Gray*, 2003 OK 10, ¶ 43, 65 P.3d 591. Because the trial court’s burden of proof below was clear and convincing evidence, 10A O.S. § 1-4-710(D), our review on appeal must demonstrate the presence of clear and convincing evidence to support the trial court’s decision. See *In re S.B.C.*, 2002 OK 83, ¶ 7, 64 P.3d 1080, 1083; *In re C.L.D.*, 2010 OK CIV APP 54, ¶ 9, 238 P.3d 966, 969.

## III.

### A.

According to 10A O.S. § 1-4-709, a court may order a permanent guardianship if the guardianship is in the children’s best interests and eight conditions are substantially satisfied. The condition at issue in this case, as it is the only one challenged by Mr. Clayton in this appeal, is that a parent must fail to substantially correct the conditions that led to the adjudication of the child. 10A § 1-4-709(A)(2)(c). Mr. Clayton contends that he has substantially corrected the conditions that led to the adjudication of his children. In May of 2023, Mr. Clayton adopted a second ISP in which he agreed to correct the conditions of substance abuse, domestic violence, threat of harm, failure to protect, neglect, failure to provide a safe and stable home, and failure to provide proper parental

care and guardianship. Thus, the issue to be addressed in this appeal is whether the state proved, by clear and convincing evidence, that Mr. Clayton failed to correct the above-referenced conditions.

First, however, we must address Mr. Clayton's contention that 10A O.S. § 1-4-709(A)(2)(c) requires that the state prove that the parent failed to correct *all* of the conditions that led the child to be adjudicated deprived. *See Brief-in-Chief*, pgs. 13-15. According to the Mr. Clayton, if he can show that even one condition was substantially corrected, then the state cannot meet its burden to impose a permanent guardianship. We decline to adopt such a reading of 10A O.S. § 1-4-709(A)(2)(c).

The statute provides:

A. 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 all of the following conditions are substantially satisfied:

...

2. The parent has:

...

c. failed to substantially correct the conditions that led to the adjudication of the child ....

10A O.S. § 1-4-709(A)(2)(c). Section (A) clearly states "all" of the conditions listed in the statute must be substantially satisfied. Noticeably absent from subsection (2)(c), is the word "all."

Oklahoma courts have consistently held that "[w]hen the language of a statute is plain and unambiguous, no occasion exists for application of rules of construction, and the statute will be accorded meaning as expressed by the language employed." *In re City of Durant*, 2002 OK 52, ¶ 13, 50 P.3d 218, 221.

Here, we find that the legislature made a clear and intentional choice to require “all” eight conditions to be substantially satisfied in order for a permanent guardianship to be put in place. Likewise, it could have required a parent to fail to substantially correct “all” of the “conditions that led to the adjudication of the child,” but did not. We find the omission to be intentional and decline to read a word into § 1-4-709(A)(2)(c) that simply is not there. Additionally, reading the statute as Mr. Clayton invites would make it significantly easier to terminate parental rights than it would to impose a guardianship in the course of a deprived proceeding. We think this interpretation is unlikely and decline to adopt it. We hold that § 1-4-709(A)(2)(c) is satisfied if the parent has failed to substantially correct even a single condition that led to the deprived adjudication.

The state alleged that Mr. Clayton had failed to correct the following conditions: substance abuse, lack of proper parental care and guardianship, domestic violence, threat of harm, neglect, and failure to provide a safe and stable home. Upon review, we find that there is insufficient evidence contained in the record to determine whether Mr. Clayton corrected the conditions of domestic violence and substance abuse.<sup>4</sup> However, we find that the state

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<sup>4</sup> The ISP reflects that DHS initially had concerns about Mr. Clayton’s alcohol consumption. However, testimony at trial and the various UAs in the record support Mr. Clayton’s contention that he now no longer drinks alcohol. While several witnesses expressed concern regarding Mr. Clayton’s medical marijuana use, it is clear that the children were adjudicated deprived on the grounds of addiction to alcohol. The record does not contain any evidence that his medical marijuana use was a concern to DHS or the court before trial.

Additionally, there was no evidence presented regarding any new incidents of domestic violence. As of August 2024, Mr. Clayton had completed the fifty-two-week

presented clear and convincing evidence of Mr. Clayton's failure to correct the remaining conditions and, therefore, the trial court's decision to appoint a guardianship for the three minor children at issue in this case was proper pursuant to 10A O.S. § 1-4-709.

Regarding the condition of lack of proper parental care and guardianship, we note that this case was initiated in 2019. The children have been in DHS custody for six years and with the foster parents/appointed guardians for roughly four years. Tr. (April 21, 2025), pgs. 64-68. Elizabeth Toivonen, the child welfare specialist who was assigned to this case, testified that Mr. Clayton's phone calls with M.C., I.C., and Z.C. were inconsistent at best and, as of the date of trial, phone calls had not happened in quite a while. *Id.* at 58-59. She added that when the girls were participating in phone calls quite some time ago, the conversations would be brief and mostly consisted of a greeting and Mr. Clayton asking the three children what gift or item they wanted him to bring to the next visit. *Id.* at 60. LaDonna Eastep, the children's foster mother for the last four years, also testified that Mr. Clayton stopped making phone calls to chat with the girls after the boys went home. Tr. (April 22, 2025), pg. 79. While Mr. Clayton contends that he attempted to call the girls and his calls were just not returned, we note that there was no other evidence presented of any attempted

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Batterers Intervention Program for a second time. ROA 1484. LaDonna Eastep, the children's foster mother, and Mr. Clayton's oldest child, A.C., testified about an incident that occurred between Mr. Clayton and D.J. Eastep, the children's foster father, in the parking lot after the first day of the guardianship hearing. The witnesses testified that Mr. Clayton cursed at Mr. Eastep and the two engaged in a brief, heated discussion. However, there was no physical altercation. While this incident was a cause of concern for caseworkers, the attorneys, and the court, we find that this exchange alone is insufficient to support a finding that Mr. Clayton has not corrected the condition of domestic violence.

communication to show that he had indeed reached out to the girls as he claimed.

Additionally, Mr. Clayton was asked by the court to make videos of himself to send to the girls as a way for him to tell them how he has changed and try and connect with them. Tr. (April 21, 2025), pg. 61. Regarding the one and only video that was made, Ms. Toivonen testified, “[I]t was mostly I.C. (the I.C. in Mr. Clayton’s custody) and H.C. on the video. And Mr. Clayton kind of popped in for a few seconds, said ‘Hi, I miss you,’ and that was it.” *Id.* at 62. Mr. Clayton did not make another video, despite being offered assistance from Davon Green, another DHS worker assigned to this case. When asked why he did not make another video for the children, he testified that it was because he did not want to upset the boys in the house. Tr. (April 23, 2025) pg. 133.

Although the girls have not participated in family therapy with Mr. Clayton, Ms. Toivonen testified that Mr. Clayton was not attending all of the family therapy sessions he should have been with the boys in his care. Tr. (April 21, 2025), pg. 121. She clarified that he only attends one or two sessions a month and that they are having to call the therapy times “sibling therapy” because Mr. Clayton is not present. *Id.* Ultimately, the record reflects that Mr. Clayton has been given ample opportunities to build a relationship with M.C., I.C., and Z.C., and has not done so. Therefore, we find that the state presented clear and convincing evidence that Mr. Clayton had not corrected the condition of proper parental care and guardianship.

Neglect is defined in the Oklahoma Children’s Code as a failure to provide:



- (a) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
- (b) medical, dental, or behavioral health care,
- (c) supervision or appropriate caretakers to protect the child from harm or threatened harm of which any reasonable and prudent person responsible for the child's health, safety or welfare would be aware, or
- (d) special care made necessary for the child's health and safety by the physical or mental condition of the child ....

10A O.S. § 1-1-105(49). Several witnesses testified about Mr. Clayton's failure to provide proper supervision and appropriate caretakers for the children. Mr. Green was asked if any potential or already serving babysitters for the children have been vetted by the Department, as required by DHS policy, to which he responded, "No ma'am." Tr. (April 21, 2025), pg. 134. Ms. Toivonen also testified that she was given the names of two babysitters to approve to watch the boys in Mr. Clayton's care. *Id.* at 56. However, she clarified that DHS was never able to run background checks on either of them or get them approved. *Id.* Further, she testified that caseworkers have gone to Mr. Clayton's home on different occasions and an unapproved person under the age of eighteen was watching the boys. *Id.* She stated that at times, the oldest child in Mr. Clayton's care, E.C., who was twelve at the time, was watching the younger boys in the home. *Id.* E.C. also confirmed that he watches his brothers at times. *Id.* On one such occasion, where the boys were being supervised by someone other than Mr. Clayton, I.C. found Mr. Clayton's lighter and used it to burn holes into the curtains in their room. *Id.* at 79.

The Court Appointed Special Advocate (CASA), Lisa Tierney, testified that before Mr. Clayton's termination trial, all of the children were allowed to have unsupervised visitation with him. Tr. (April 22, 2025), pg. 177. She added that, "[I]t ended quickly due to instances of not being able to wake dad up, smoke coming out of the microwave, and a window was opened on the second floor and Q.C. almost fell out and E.C. had to pull him back." *Id.* She stated that there were "two weekends that so many things went wrong" with the unsupervised care that after two weeks the judge found that there would be no more unsupervised time. *Id.* Although this occurred roughly two years ago, that was the last time that Mr. Clayton had all eight children in his care. While he has consented to the guardianship of his oldest child and his youngest child, Mr. Clayton is asking to have care of six children. Although he contends that he would do things differently now than he did during his unsupervised time two years ago, the record reflects that Mr. Clayton has not provided proper supervision and care for the three children he currently has in his care.

Additionally, Ms. Toivonen testified that she had concerns regarding Mr. Clayton's ability to provide the children with proper medical care. Tr. (April 21, 2025), pg. 45. For example, I.C. started medication while he was in foster care. Upon returning to the care of Mr. Clayton, I.C. stopped taking his medication. *Id.* at 141. I.C. explicitly expressed to Mr. Green a desire to take his medication; however, as of trial, he was still not back on the medication. *Id.* Ms. Tierney testified that Mr. Clayton does not have the requisite level of understanding of the degree of trauma these kids have experienced and the effect it has on their

daily life. Tr. (April 22, 2025), pg. 203. During his testimony, Mr. Clayton was not able to fully acknowledge the difficulties his children have experienced, maintaining that the younger children were being influenced to not want to attend visitation by their older sister, A.C. *See id.* at 140-141. Ultimately, the state presented clear and convincing evidence that Mr. Clayton had not corrected the condition of neglect as there was still a failure to provide adequate medical care and supervision or appropriate caretakers to protect the children. 10A O.S. §1-1-105(49).

Threat of harm is defined as “any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including, but not limited to, sexual abuse, sexual exploitation, neglect, or dependency.” 10A O.S. § 1-1-105(34). Several witnesses testified that Mr. Clayton had a domestic violence incident with the children’s mother in January 2023. Mr. Clayton had already completed BIP when this incident occurred. Tr. (April 21, 2025), pg. 23. Although Mr. Clayton reported that he had not been involved with the children’s mother, whose parental rights were terminated, for quite some time, Ms. Toivonen testified that there were ongoing concerns regarding the mother because Mr. Clayton had promised the children throughout the case that when they were returned to his care, they would get to be with their mom again. *Id.* at 48. It was also alleged at various times throughout trial that the children’s mother had somehow reached out to E.C. after he had been returned to Mr. Clayton’s care.

Ms. Toivonen testified that she did not feel safe going into Mr. Clayton's home due to his anger issues. *Id.* at 27. She clarified that "he had spent quite a bit of time in parking lots yelling at me, and so I did not feel safe to go into his home." *Id.* Additionally, both Mrs. Eastep and the oldest child, A.C., testified regarding the incident that took place in the parking lot between Mr. Clayton and Mr. Eastep after the first day of trial. Mrs. Eastep testified that Mr. Clayton engaged Mr. Eastep in the parking lot by cursing at him. Tr. (April 22, 2025), pg. 59. A.C. testified to the same sequence of events later at trial. *Id.* at 125.

Mrs. Eastep also testified that Z.C. told her that she was scared to go on visits to see her dad because of his yelling. *Id.* at 49. Ms. Tierney testified regarding an incident where M.C. was yelled at by Mr. Clayton during a visit and she had to be comforted by the CASA because she was shaking and crying. *Id.* at 183. She also expressed that the children's desire not to return to Mr. Clayton's care is based on their experiences with him in the past. *Id.* at 197. Ms. Toivonen testified that I.C. has "been verbal and verbalizing that she does not want to go home. She does not want to have visits with Dad. She did do visits for awhile, and then she told me her dad lied, so she didn't want to go." Tr. (April 21, 2025) pg. 32. She clarified that Mr. Clayton had told I.C. that he would stop smoking, but she saw him light a cigarette after a visit which was the catalyst of her not wanting to go on visits with him. *Id.* Although Mr. Clayton wants M.C., I.C., and Z.C. returned to his care, Ms. Toivonen testified that "because of the trauma they've experienced, forcing them to go to visits, in one sense, it takes out a little—a little bit of control in their life that they have. They've made this

decision that they don't want to see their dad, and it would do mental harm to force them to go see him." *Id.* at 40.

Ultimately, the record reflects that the children have experienced mental and emotional injury as a result of being in Mr. Clayton's care. Additionally, there is a concern that he would allow the children's mother to have access to the children, despite her rights being terminated, and that it may have already happened. Despite completing two BIP programs, the record reflects Mr. Clayton still struggles with managing his anger and has made various people involved in this case uncomfortable due to his actions and reactions. The caseworkers and professionals involved in this case testified that forcing the girls to visit with their father or returning them to his care would cause them even more mental and emotional injury. These children are still at risk of enduring even more harm; thus, we find that this condition has not been substantially corrected.

Finally, we will address whether Mr. Clayton substantially corrected the condition of failure to provide a safe and stable home. Ms. Toivonen testified that there had been many months where Mr. Clayton has had to ask for help with rent. Tr. (April 21, 2025), pg. 51. Specifically, she noted that the department provided him with \$1,000 one month for rent and \$500 towards another month's rent. *Id.* She stated that there were several months where no one knew if he was going to get kicked out of his house or not. *Id.* at 74. Mr. Green testified that the frequent requests for financial assistance concerned him greatly. *Id.* at 140. Youth Villages, a non-profit that offers in home counseling services for families, was involved in this case. However, they eventually had to terminate Mr. Clayton

from the program because Mr. Green testified that “they spent every session trying to help Mr. Clayton figure out how to meet the children’s basic needs. So they did not do any of the other modules or programming that they needed to do.” *Id.* at 52. Mr. Green also testified that there were many things that Youth Villages wanted to address with Mr. Clayton such as home safety, budgeting, and family therapy, but were unable to due to Mr. Clayton needing to be taken by Youth Villages to apply for Section 8 Housing or needing to go get food for the home. *Id.* at 127.

Additionally, Ms. Toivonen was asked the following question: “This home is safe enough for these three boys to be there. You haven’t removed them. Therefore, it’s safe for all the kids to be there. Do you agree or disagree with that statement?” *Id.* She answered that she disagreed because Mr. Clayton was “barely meeting the boys’ needs as is. If you add additional children, how is he going to support them?” *Id.* Indeed, Ms. Tierney later stated, “Every child you add on is an extra expense, and it’s time that you need to spend with that child. Monitor schooling, dental, physical, therapy. So going from three to six is going to be a hardship.” Tr. (April 23, 2025), pg. 199. She stated that adding three more children, especially when there are already financial concerns present, could create food issues and create more chaos in the home “with six children who have been traumatized over six years. And— they need quiet, and calm, and structure, and I don’t see that necessarily happening there.” *Id.* Based on the record and the testimony at trial we agree with the trial court that Mr. Clayton did not correct the condition and is not able to provide a safe and stable home.

On appeal, Mr. Clayton contends that he completed all of his services and, therefore, he must have corrected all of the conditions. However, we note that just as failure to perform an ISP is not conclusive proof of the need to terminate parental rights, completion of an ISP does not automatically prove that the conditions that led to the deprived determination no longer exist. *See In re S.A.*, 2007 OK CIV APP 97, ¶ 12, 169 P.3d 730, 735. There was ample evidence presented at trial that Mr. Clayton had not corrected all of the conditions in the second ISP, despite completing parenting classes, BIP, individual therapy, and family therapy. Upon careful review, we find that the trial court's decision to appoint a guardian for M.C., I.C., and Z.C. was not an abuse of discretion and the state proved, with clear and convincing evidence, that Mr. Clayton had not substantially corrected the conditions which led to removal of the children.

**B.**

Mr. Clayton's second proposition of error is that the court erred in granting a permanent guardianship based on the best interest of the children alone. For the reasons articulated above, we find that the court's decision was not based on the best interests of the children alone. Rather, the court determined, and we agree, that Mr. Clayton had not substantially corrected the conditions that led to removal and, therefore, the court permissibly granted a guardianship pursuant to 10A O.S. § 1-4-709. To the extent that Mr. Clayton challenges the court's best interests determination, we agree with the trial court that the guardianship is in the best interests of M.C., I.C., and Z.C, based on the evidence above and additional evidence discussed below.

Ms. Toivonen testified that the three minor children at issue in this case “treat the foster parents like mom and dad. They call them mom and dad ... they help with chores. They do activities. They go to church. They go to school. Just a regular family.” Tr. (April 21, 2025), pg. 69. Regarding their relationship with Mr. Clayton, she later added, “they have been in custody for six years. They don’t have the relationship; they don’t know him. [Z.C] was removed at one month. She’s never lived in his home. She does not know him as Dad.” *Id.* at 72. Each one of the children told Ms. Toivonen that they wanted to stay with the foster parents, and they did not want to return to Mr. Clayton’s care. *Id.* Ms. Toivonen stated that a guardianship with the Easteps is in M.C., I.C., and Z.C’s best interests. *Id.* at 73. Mr. Green agreed that the guardianship is in the best interests of all three minor children. *Id.* at 152-155. Ms. Tierney also testified that remaining in the foster parents’ home by way of the guardianship was in the children’s best interest due to their strong feelings of safety, security, and love in the home. Tr. (April 22, 2025), pg. 184. She also stated that, “this has been going on six years. Six years is a long time for children to be in foster care. I think they need permanency. And I think the wishes of—I think we need to start listening to these girls. The girls have reasons that they don’t feel safe with their dad.” *Id.* at 186.

Rather than acknowledging that M.C., I.C., and Z.C. might not feel safe with him due to their experiences before removal and because of being in foster care for six years, Mr. Clayton blamed the state of his relationship with the three girls on his oldest child, A.C., and on the foster parents. For example, he testified



that A.C. has influenced all of the other children to not go on visits and to not talk with Mr. Clayton because she does not feel safe having a relationship with him herself. Tr. (April 23, 2025), pg. 163. First, we note that if A.C. had influenced all of the children as he suggests, the three boys, E.C., I.C., and H.C., would have never wanted to return to Mr. Clayton's care. Second, A.C. was asked if she had spoken with her sisters about going on visits with their dad. Tr. (April 22, 2025), pg. 118. She answered that she had not and that "if they have questions about why I don't want to go, or if they think it's okay for them to go, I'll tell them that's their choice. [I]f you want to, I will support you, but I do not feel safe going." *Id.*

Mr. Clayton also claims that the foster parents would influence M.C., I.C., and Z.C. to not go on visits and encourage them to not speak with him. He first testified that if he did not call within five minutes of the set time he was supposed to call, he would not get a call back. Tr. (April 2023, 2025), pg. 95. However, as discussed above, several other witnesses testified that Mr. Clayton's communications with the girls was sporadic at best and stopped altogether once the three boys returned to his care. Mr. Clayton also implied that the girls would get treats or some kind of reward for not going on visits; however, Mrs. Eastep testified that Braums was a meeting place for visits, so the girls would get dinner or other items at Braums when the boys would go on visits with dad because they would eat with him. Tr. (April 22, 2025), pgs. 90-91. Mrs. Eastep also testified that she never tried to prevent the boys from returning to their dad and that she and Mr. Eastep wish to have civil communication with Mr. Clayton in

the future so the kids would be able to continue to see each other. *Id.* at 66, 101. She also described an instance around Christmas, 2023, when Z.C. had randomly decided that she wanted to see Mr. Clayton, and the Easteps called Mr. Green right away to set up the visit. *Id.* at 50. We note that Z.C. deciding to go on a visit on her own accord, even though she eventually changed her mind, is also inconsistent with Mr. Clayton's position that A.C. or the foster parents convinced all of the children to not see him. Mr. Green also testified that any time he has talked with the Easteps, "they said they're always welcome to any type of visitations between Mr. Clayton and the kids as long as the kids are okay with that type of visitation." *Id.* at 166.

In addition to blaming the communication and visitation breakdowns on A.C. and the foster parents, the record also reflects that Mr. Clayton struggled to understand the emotional and mental impact that his previous actions have had on the children. He was asked if the girls, M.C., I.C., and Z.C., could have come to their own opinions about visitation and continuing a relationship with him based on their own experiences with Mr. Clayton. Tr. (April 23, 2025), pg. 140. He answered, "I think [A.C.] could." He was asked if he thought it was possible for the younger ones to also form their own opinions to which he responded, "I would say that there is some memory there. But do I believe it's to the extent that a four- or five-year-old? No." *Id.* at 141. He testified that he believes four and five-year-olds are easily influenced and that he was trying "to understand how a four-year-old and a five-year-old know what's going on when they weren't even really born." *Id.* Regarding A.C.'s opinions and experiences,

Mr. Clayton was asked if he thought A.C. was a liar, to which he responded, "I wouldn't call her a liar, but I would say that she can talk to get—to get—she's very intelligent." *Id.* at 162. He clarified that, "I think that a lot of the things that she is saying is—some of it is true based on what she saw. I can't deny that. However, I do believe that some of the things are added on, if you want to say, or not so honest." *Id.* at 162.

The record reflects that the children were removed from their home in 2019 due to the children's mother testing positive for opiates and barbiturates at the birth of Z.C. ROA 92. The mother had tested positive for marijuana and benzodiazepines at the birth of M.C. *Id.* Both the biological mother and Mr. Clayton acknowledged that physical abuse had occurred in front of the children. *Id.* A.C. was in fifth grade at the time and had not attended school since November 2018. E.C. would have been in kindergarten but also had not attended school. *Id.* Mr. Clayton was struggling with abusing alcohol during this time and also reported that there was no food in the home. *Id.* At the time of removal, A.C. was eleven years old, E.C. was six years old, M.C. was four years old, the twins, I.C. and I.C., were three years old, H.C. was one year old, and Z.C. was six months old. These children undoubtedly endured emotional distress as a result of these experiences and continued to experience similar distress by way of remaining in foster care, changing placements in foster care, and a general lack of permanency. Ms. Tierney testified that even very young children can have psychological and physical triggers that they might not yet understand from trauma that they have experienced. Tr. (April 22, 2025), pg. 204. She was later

asked if she thought Mr. Clayton could be sensitive to each child's needs and desires, to which she responded: "I have not seen that. I think Mr. Clayton wants his kids back, but each of these kids have different needs—and a different voice, and I don't feel like they've been heard by him." Tr. (April 23, 2025), pg. 11.

M.C., I.C., and Z.C. have all independently expressed their desires to remain in the Easteps' home to many different adults in this case.<sup>5</sup> Each child has individual needs. While the boys, E.C., I.C., and H.C. expressed a desire to return to Mr. Clayton's home, each of the girls indicated that they do not wish to return to Mr. Clayton's care, and they would not feel safe doing so. The caseworkers all testified that the guardianship is in the best interests of M.C., I.C., and Z.C., and the court agreed. Upon review, we hold that the record contains sufficient evidence to support a finding, by clear and convincing evidence, that the guardianship is in the best interests of M.C., I.C., and Z.C.

**AFFIRMED.**

BARNES, J., and HUBER, J., concur.

January 23, 2026

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<sup>5</sup> We note that should M.C., I.C., and Z.C. change their minds and decide that they do want to return to the care of Mr. Clayton, the guardians, the children themselves, a district attorney, or even the court on its own initiative may move to modify or terminate the guardianship pursuant to § 1-4-711.