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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 THE)
ADOPTION OF V.V.S.:)
))
ROLAYNIER VALDIVIA CASTILLO,)
))
Respondent/Appellant,)
))
vs.)
))
OSWALDO J. FIERRO HERNANDEZ,)
))
Petitioner/Appellee.)

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

JUN 10 2026

SELDEN JONES
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APPEAL FROM THE DISTRICT COURT OF
TEXAS COUNTY, OKLAHOMA

HONORABLE A. CLARK JETT, TRIAL JUDGE

REVERSED AND REMANDED WITH INSTRUCTIONS

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MEMORANDUM OPINION

OPINION BY DEBORAH B. BARNES, JUDGE:

Rolaynier Valdivia Castillo (Natural Father) appeals from the district court's Order for Adoption of Minor Without Consent of Natural Father (Order) upon the application of Oswaldo J. Fierro Hernandez (Stepfather) to permit the adoption of the minor child V.V.S. without the consent of Natural Father. We reverse and remand with instructions.

An order permitting the adoption of a child without the parent's consent is tantamount to the termination of that parent's parental rights. *In re Adoption of M.A.S.*, 2018 OK 1, ¶ 10, 419 P.3d 204, 208. "A parent's fundamental right to the care, custody, companionship and management of his or her child is a right protected by the United States and Oklahoma Constitutions." *Id.* (citation omitted). As such, the parent is entitled to the full panoply of due process rights, and this Court is obligated to ensure the protection of the parent's fundamental rights even if the parent has not raised a particular due process violation in his appeal of an order in derogation of those rights. *See, e.g., In re K.H.*, 2021 OK 33, ¶ 4, 507 P.3d 657, 659 (Darby, C.J., concurring) ("We have held that a fundamental error is one which 'has a substantial effect on the rights of one or more of the parties' and is reviewable even if the parties did not raise the error on

appeal. [*Sullivan v. Forty-Second West Corp.*, 1998 OK 48, ¶¶ 4,7, 961 P.2d 801, 802-03].”).

In the present case, the Order is deficient because it incorporates by reference a court minute (Minute) that, while filed, was itself not mailed to the parties; the incorporated Minute conflicts with at least one of the findings in the Order; and the district court specifically determined in its Minute that it was not making a determination about a factual issue of notice pertaining to the conflicting finding made in the Order.

After an evidentiary hearing held November 21, 2024, the district court issued a thorough and comprehensive Minute in which it set forth its findings of fact and conclusions of law and order regarding Stepfather’s application to permit the adoption of V.V.S. without Natural Father’s consent. That Minute was filed December 23, 2024. The Minute additionally states, “All per journal entry to be prepared by [Stepfather’s counsel],” followed by the judge’s signature.¹ The Order was filed January 30, 2025. Following the last typewritten line of the Order above

¹ The Minute has all the attributes of a final order, 12 O.S. 2021 § 696.3(A), but it is denominated a court minute. A minute is not a final order. Okla. Sup. Ct. R. 1.21(a), 12 O.S. 2021 & Supp. 2023, ch. 15, app. 1. *See also Laubach v. Laubach*, 2022 OK 78, ¶ 11, 561 P.3d 54, 58 (In previous case law “we made it abundantly clear that after the statutory 1993 Legislative enactments, this Court would not be examining the contents of each instrument labeled ‘minute’ to determine appealability. Nor would we be creating a body of caselaw delineating the type of minutes which are appealable and non-appealable. Rather, we recognized the Legislature’s creation of a bright line rule to distinguish appealable orders from the non-appealable orders we had recognized in the past.” (footnote omitted) (citation omitted)).

the signature of the judge is the following handwritten sentence: “Incorporating by reference the findings of fact and conclusions of law contained in the [Minute] filed on December 23, 2024.” This added sentence appears to reiterate the district court’s directive in its Minute that its findings of fact and conclusions of law be included in the Order and were expected to be included. But they were not and the Minute was not otherwise attached or appended to the Order. The incorporate-by-reference language does not cure the defect of the completeness of the Order.

Further, one of the issues concerning Natural Father’s alleged willful failure to pay child support for the requisite period – and a ground upon which the district court found Natural Father’s consent was not needed – is in conflict between the Order and the Minute. The Order states:

Pursuant to 10 O.S. § 7505-4.2(B)(1) the adoption should proceed without [Natural Father’s consent] as he has willfully failed, refused, and neglected to contribute to the support of [the] minor in substantial compliance with an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support [for the requisite period].²

One of the issues presented below, however, was whether Natural Father ever received notice of the order of support issued in a prior paternity proceeding.³ In

² Order ¶ 7.

³ The district court took judicial notice of Case No. FP-2020-04 filed by Liliana Serna (now Liliana Fierro) (Mother) against Natural Father. R. 43, Minute. Natural Father demanded a paternity test and was ultimately determined to be the child’s biological father. Natural Father, who does not speak English, was not represented by counsel in the paternity proceeding and requested that his then girlfriend act as his interpreter in the hearings he attended.

the Minute, the district court found Natural Father had notice of a temporary order of support in the paternity proceeding which obligation was to commence May 1, 2021; the amount of support he was ordered to pay, however, had not been expressly stated in the temporary order. The final hearing was set for May 13, 2021. Natural Father had notice of that hearing, but he failed to attend. The hearing resulted in, among other matters, a finding that Natural Father was in default and an order directing Natural Father to pay child support. A journal entry of judgment was filed on September 28, 2021, that set out the amount of Natural Father's support obligation; however, no certificate of mailing was attached to the order and Natural Father denied he received notice.⁴ Mother, who consents to the adoption, never sought enforcement of the order. The Minute specifically finds: “[Natural Father] never received copies of those documents nor did he inquire.”⁵

In the Minute, the court found by clear and convincing evidence that Natural Father failed to pay child support during the requisite period, that he had the financial means to support the child, and that his failure to support was willful.⁶

Contrary to the Order, however, the court found:

Strictly interpreting 10 O.S. 7505-4.2 B. and viewing the evidence in the light most favorable to [Natural Father,] the court concludes

⁴ Natural Father never paid any support under the temporary order, but that failure to pay was years before the relevant period in the adoption case.

⁵ R. 47.

⁶ R. 48.

[Stepfather] has proven by clear and convincing evidence that consent to adoption is not required from [Natural Father] because [for the requisite period] he has willfully failed, refused and neglected to contribute to the support of such minor:

2. According to such parent's financial ability to contribute to such minor's support if no provision for support is provided in an order.

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The double asterisk referenced the following: "The court does not reach the question of whether [Natural Father] either knew or should have known of the September 28, 2021 ORDER and CHILD SUPPORT COMPUTATION establishing a monthly child support payment in the amount of \$380.11."⁸

The Order and the Minute are in conflict and thus deny Natural Father notice of the basis upon which his parental rights have been curtailed because his consent has been deemed unnecessary to the child's adoption. That conflict must be clarified or corrected. Upon such correction or clarification, if warranted, the district court must also determine in the first instance whether Natural Father "knew or should have known of the September 28, 2021 ORDER and CHILD SUPPORT COMPUTATION establishing a monthly child support payment in the amount of \$380.11" because that may bear on issues of willfulness under either § 7505-4.2(B)(1) or (B)(2).

⁷ R. 48

⁸ R. 50.

We, therefore, reverse the Order and remand the matter to the district court to issue an order that contains in one document all findings of fact and conclusions of law needed to decide the application for adoption without Natural Father's consent.

REVERSED AND REMANDED WITH INSTRUCTIONS.

HUBER, J., concurs, and BLACKWELL, P.J., dissents.

BLACKWELL, J., dissenting:

I first note that the majority raises all issues regarding the minute entry, its service, and the effect of the discrepancy between the minute and the journal entry, on its own. The father simply argues that the court's final order allowing the adoption without consent was contrary to the evidence. We should evaluate the errors the father is claiming and no more. Further, "[t]he court, in every stage of action, must disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect." 12 O.S. § 78. By reversing on technicalities, the majority elevates form over substance.

As to the evidence, regardless of any issue related to the child-support ground (§ 7505-4.2(B)), the evidence against the father concerning the failure-to-maintain-a-substantial-and-positive-relationship ground (§ 7505-4.2(H)) was

overwhelming.¹ Indeed, the father admitted at trial that he did not have and had not pursued *any* relationship with the child since the child was three months old.² The child was four and a half at the time of trial. The father's proffered excuse was, in effect, that the mother would not allow any such relationship if he had asked. But he never asked, and the mother was under *zero* obligation to reach out to him to facilitate a relationship.³ The father also admitted he took no legal action whatsoever to establish or enforce his visitation rights, his only excuse being that he could not find an attorney he could afford. The statute does not acknowledge any such defense.

The trial court's order rests on clear and convincing evidence. We should affirm. I respectfully dissent.

June 10, 2026

¹ Only one statutory ground is needed in order to sustain an application for an adoption without consent. 10 O.S. § 7505-4.2. *See also Matter of E.J.T.*, 2024 OK 14, ¶ 15, 544 P.3d 950, 957 (“[A] termination order may be affirmed where only one statutory ground is met.”).

² *See Brief-in-Chief*, pg. 9 (“Here, Mr. Valdivia did not have a relationship with [the child] during the requisite period.”).

³ The visitation order in place allowed visitation by agreement or by further order of the court. The evidence was consistent from all parties that the father simply never asked the mother for any visitation and that he never sought to enforce or expand his visitation rights through any legal action.