



# ORIGINAL

THIS OPINION HAS BEEN RELEASED FOR PUBLICATION BY ORDER OF  
THE COURT OF CIVIL APPEALS

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF E.R., H.R., and )  
O.R., ALLEGED DEPRIVED )  
CHILDREN, )

NOEL BOX, )  
Appellant, )

vs. )

STATE OF OKLAHOMA, )  
Appellee. )

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COURT OF CIVIL APPEALS  
STATE OF OKLAHOMA

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SELDEN JONES  
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Case No. 122,785

APPEAL FROM THE DISTRICT COURT OF  
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE MARK McCORMICK, TRIAL JUDGE

**AFFIRMED**

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For the Children

OPINION BY JAMES R. HUBER, JUDGE:

¶1 Noel Box (Mother)<sup>1</sup> appeals a district court order terminating her parental rights as to her three minor children, E.R., H.R., and O.R., after a jury verdict. The issues on appeal are whether the State of Oklahoma proved by clear and convincing evidence the required elements for termination of Mother's parental rights pursuant to 10A O.S.2021 § 1-4-904(B)(5), and whether the district court's decision to deny Mother's waiver of a jury trial violates her constitutional rights. After review of the record and applicable law, we affirm.<sup>2</sup>

### BACKGROUND

¶2 On January 9, 2023, E.R., H.R., and O.R. were taken into emergency custody by Oklahoma Department of Human Services (DHS). The reasons the

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<sup>1</sup> The record reflects filings related to the parental rights of the biological father of H.R. and O.R., Mark Robbins. Initially, it was alleged that Mr. Robbins was also the father of E.R. However, through court required testing, Mr. Robbins was excluded. It was alleged that an individual named Roy Watson was the father of E.R. Mother claimed to have determined this through an at-home DNA test. There was nothing in the record to show that Mr. Watson obtained a court-ordered DNA test confirming his parentage as to E.R. Although the parental rights of Mr. Watson and Mr. Robbins are not before us in this appeal, they appear in the record in relation to Mother's parental rights. Thus, a brief explanation of these individuals is warranted.

<sup>2</sup> We note State's Motion for Inquiry filed on June 9, 2026.

minor children were placed into DHS custody were outlined in an affidavit attached to State's Application to Take Minor Child(ren) into Emergency Custody.

¶3 The affidavit stated that on December 28, 2022, the Edmond Police Department (EPD) encountered a child, believed to be about five years old, who was outside of a vehicle and trying to get back inside. EPD officers had to loudly bang on the vehicle to wake Mother up. Mother informed the officers that she had several medical problems that caused fatigue. EPD officers did not believe Mother was under the influence of any substances.

¶4 The following day, on December 29, 2022, EPD officers responded to another incident involving Mother and her children. At this time, Mother and Mark Robbins, the children's alleged father, were in a vehicle. Mr. Robbins was subsequently arrested for violation of a protective order. The affidavit stated that Mr. Robbins had a criminal history and had been abusive to Mother. In January of 2019, Mother filed a protective order against Mr. Robbins, which was granted. In December of 2021, a judge ordered the protective order to remain in effect until further court order. At the time of the December 2022 incidents involving her children, Mother was still in contact with Mr. Robbins, and it was alleged that he had recently been physically abusive towards Mother.

¶5 On January 19, 2023, State filed a Petition to adjudicate E.R., H.R., and O.R. deprived as to Mother and to terminate her parental rights. The Petition sought

termination “pursuant to 10A O.S. §1-4-904(A) and (B)(14) for failure to correct the conditions of a previous deprived adjudication.”<sup>3</sup> The alleged conditions that supported State’s requested relief were: (1) that Mother failed to provide proper parental care and guardianship; (2) that Mother’s home was unfit due to domestic violence; (3) that the home of Mother was unfit due to failure to maintain a safe and stable home; and (4) that Mother was unfit due to threat of harm.

¶6 Although an individualized service plan (ISP) was not formally approved by the district court, the record reflects that an ISP was created for Mother on February 8, 2023. An initial ISP report filed on February 16, 2023, identified the following conditions Mother needed to correct:

The Mother has failed to provide the proper parental care and guardianship necessary for the children’s physical and mental well-being; That the home of the Mother is unfit due to domestic violence; That the Mother and Father Robbins have a history of domestic violence; That the Mother filed a VPO against the Father in [an] Oklahoma County case . . . and it was granted on 08/05/2019; That the protective order is still in effect; That the Father was charged in Oklahoma Count[y] . . . with Domestic Assault and Battery with a Dangerous Weapon with the Mother as the named victim; That the Mother sent a letter to the Court stating that nothing had happened between her and the Father and that he frequently helped her care for the children; That the Mother expressed that she intends to maintain a relationship with the Father; That the home of the Mother is unfit due to failure to maintain a safe and stable home; That the Mother does not have a safe and stable home in which to raise[] the children; That

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<sup>3</sup> In 2018, H.R. and O.R. were in DHS custody and adjudicated deprived as to Mother for: (1) lack of proper parental care and guardianship; (2) domestic violence; (3) failure to maintain a safe and stable home; and (4) threat of harm. H.R. and O.R. were returned to Mother’s custody.

the Mother and children were living in a car; That the home of the Mother is unfit due to threat of harm; That [H.R.] and [O.R.] were previously in state custody in [an] Oklahoma County case . . . ; That the children were adjudicated as to the Mother for the conditions of lack of proper parental care and guardianship, domestic violence, failure to maintain a safe and stable home, and threat of harm; That the children were returned to the custody of the Mother.

¶7 The ISP identified items for Mother to do to correct these conditions. To begin, the ISP required Mother to complete a substance abuse assessment, and if necessary, complete services and random testing. With respect to domestic violence, Mother was required to obtain a domestic violence victim assessment, and if needed, complete domestic violence victim education classes. Notably, Mother would need to articulate her understanding of domestic violence, be able to identify the signs of domestic violence, and avoid relationships that could potentially lead to domestic violence.

¶8 The ISP also contained requirements for Mother to maintain a safe and stable environment for her children. Mother was obligated to enroll and complete a DHS-approved parenting program. After completion of these classes, Mother would need to demonstrate, through visitations, the skills needed to parent her children, which included being able to help them meet their developmental milestones and provide them with proper discipline. Mother was also required to complete counseling for herself and her children to ensure she could provide an emotionally stable environment.

¶9 As to the home, Mother needed to maintain a safe and stable home that was free from all hazards, including criminal activity and substance abuse. Mother was required to provide her children with proper supervision and refrain from having anyone with a criminal or substance abuse history care for her children.

Importantly, if Mother was going to leave her children with anyone, those individuals would need to submit and pass an OSBI check and be DHS-approved. Lastly, Mother had to participate in and successfully complete home-based services, such as making scheduled appointments and allowing her case manager to make both announced and unannounced visits. Ultimately, the record reflects that Mother engaged in a significant amount of services, as stated in ISP reports, permanency/review orders, and CASA reports filed with the court.

¶10 Despite making progress on her ISP, after almost a year of the children being in DHS custody, the case proceeded to trial on both the deprived adjudication and Mother's termination. Mother waived her right to jury trial, and a bench trial occurred on January 23, January 25, and February 8, 2024. On February 8, 2024, the district court entered an adjudication order wherein it determined that State met its burden of proof and found the children deprived as to Mother "for the allegations of lack of proper parental care and guardianship, threat of harm, lack of safe and stable home and domestic violence."

¶11 This February 8, 2024, order also reflected that the court set the case for “Continued Bench Trial Termination” for March 1, 2024. The order does not indicate why the court continued the termination trial to another date.

Nevertheless, there is some briefing in the record to indicate that the court had inquired as to “whether . . . [it] [could] consider events that took place after the children were placed back in custody on a petition to terminate for failure to correct the conditions of a deprived adjudication.” After briefing was filed, the court entered an order on February 20, 2024, reflecting its previous deprived ruling. In this order, the district court also determined that State failed to meet its clear and convincing burden for termination. The court ordered DHS to prepare an ISP for Mother for court approval.

¶12 On March 1, 2024, the district court formally entered an ISP for Mother.<sup>4</sup> This ISP was identical to what was contained in the first ISP report filed with the court on February 16, 2023, but included some minor, handwritten changes. In particular, the ISP no longer required Mother to complete any substance abuse services. Mother had initially completed a substance abuse assessment, but was

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<sup>4</sup> To clarify the ISP process in this case, during trial, Lisa Shaw, a DHS permanency worker, testified that DHS initially created an ISP for Mother when the case began although it was not formally court approved. Thus, that is why Mother began working services and ISP reports were filed soon after the children were taken into DHS custody.

not recommended for treatment because she did not meet the criteria for substance abuse services.

¶13 After the ISP was formally adopted, Mother continued to engage in services, but the case proceeded to a second trial. Although Mother waived her right to a jury trial on termination in favor of a bench trial, the district court determined that the case should proceed on a jury trial. On December 10 and 11, 2024, the district court conducted a jury trial, seeking termination of Mother's parental rights under 10A O.S.2021 § 1-4-904(B)(5).<sup>5</sup> At trial, evidence was presented and several witnesses testified, including Mother, a permanency worker for DHS, a court appointed special advocate, Mother's friend, and maternal grandmother. The evidence indicated Mother had made progress on her ISP, but had failed to apply the information she learned to provide proper care and a safe and stable home for her children.

¶14 Mother testified that she engaged in voluntary services, including substance abuse, domestic violence, individual therapy, and parenting classes. During her testimony, she clearly articulated what she learned in each class. For example, as to the domestic violence classes, she stated that she learned that "[t]rauma bonding is a real thing" and recognized that she had an issue with "breaking away" from

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<sup>5</sup> After Mother's children were adjudicated deprived, State amended the petition seeking termination pursuant to 10A O.S.2021 § 1-4-904(B)(5) for failure to correct the conditions that led to the deprived adjudication.

Mr. Robbins. Mother also testified about the parenting classes she took, noting that she learned about domestic violence and how that impacts her children.

¶15 Mother also provided testimony about her living situation. Shortly after Mother transitioned to unsupervised visitations, DHS became concerned because of two individuals Mother associated with. One individual, Roy Watson, who was the alleged father of E.R., had not undergone a background check, but had met Mother's children and the foster parents. Mother also had a roommate, Kayla Randazzo, who had an open DHS case involving her own children. When Mother was asked about these individuals, she became defensive and placed blame on DHS. She did not believe Mr. Watson and Ms. Randazzo were safety concerns.

¶16 Lisa Shaw, a child welfare permanency worker with DHS, also provided testimony, which largely focused on Mother's living situation. When Ms. Shaw was initially assigned to the case in June of 2023, she was concerned because Mother did not have stable housing. According to Ms. Shaw, Mother would provide her with addresses of where she was living, and Ms. Shaw would conduct unannounced visits to determine if the homes were appropriate. Ms. Shaw took issue with a recent home Mother was living in with Ms. Randazzo, as Ms. Randazzo had an open DHS case, which involved sexual abuse.

¶17 When Ms. Shaw had conversations with Mother about her living situation, Ms. Shaw explained that she could not reunify Mother with her children if Ms.

Randazzo was in the home. Mother informed Ms. Shaw that she would be moving. However, it took Mother several more months until she ultimately moved. Immediately prior to the jury trial on termination, Mother was living with maternal grandmother.

¶18 In addition to Ms. Shaw's concerns about Mother's roommate, Ms. Shaw also took issue with medical marijuana she observed in a garage during an unannounced visit and Mother's response as to how she would handle it when the children were around. According to Ms. Shaw, Mother stated that when the children were present, she would lock the door to the garage. This was still a concern for Ms. Shaw because the type of lock that was on the door was one that the children could unlock. Ms. Shaw testified that it was DHS policy for marijuana to be stored in a locked box and out of a child's reach.

¶19 Ms. Shaw also took issue with Mother's association with Mr. Watson. As Ms. Shaw confirmed during her testimony, Mother was actively engaged in all of her court ordered services. Thus, Ms. Shaw was an advocate for Mother moving to unsupervised visitations. One concern Ms. Shaw had was Mr. Watson's relationship with Mother. On one occasion, Mr. Watson was in the car when Mother brought the children back to the foster homes. When confronted about it, Mother stated that she was just giving Mr. Watson a ride. On another occasion, Ms. Shaw made an unannounced visit to Mother's home and found Mr. Watson

present. Ms. Shaw observed Mr. Watson packing up an overnight bag. Mother expressed that she had let Mr. Watson stay overnight because he was drunk and she did not want him to drive.

¶20 Mr. Watson's continued presence was an issue because DHS had not done a background check on him. Further, Mother alleged Mr. Watson was the father of E.R., which DHS had not yet confirmed. Although DHS had not done a formal background check, Ms. Shaw looked at online court records and noticed some criminal history. Mother testified that Mr. Watson's father had a criminal history and his name was also Roy. Nevertheless, Mr. Watson's continued presence was problematic, as he had not undergone a formal background check and was not a DHS-approved visitor.

¶21 During visitations, Ms. Shaw observed H.R. engaged in attention-seeking behavior, as Mother instead focused a lot of her attention on E.R. Ms. Shaw reminded Mother that she needed to divide her time equally among her children. After the visitations, E.R. did not have any behavioral issues, but H.R. and O.R. become more argumentative with each other. Ms. Shaw noted that both H.R. and O.R. were in therapy. Ultimately, Ms. Shaw recommended termination because it was in the best interests of the children, as Mother had been unable to demonstrate a safe and stable home.

¶22 Melissa Chapman, a court appointed special advocate (CASA) for the children, provided testimony following Ms. Shaw. Ms. Chapman noted that Mother had completed her services, but had not made behavioral changes. Notably, Ms. Chapman stated that Mother often put her needs above her children's and had unsafe individuals in her home. While Ms. Chapman was no longer concerned with Mother's relationship with Mr. Robbins, she took issue with Mother's ability to acknowledge the impact domestic violence had on her children. She also testified that Mother did not make good decisions about who was around her children. Ms. Chapman observed a lot of fighting between O.R. and H.R., which indicated to Ms. Chapman that they were having a hard time with their situation. Ms. Chapman also recommended termination because the children had been in DHS custody for thirteen months and needed stability.

¶23 A friend of Mother's, Tina Renfroe-Weng, had dropped off Mother to some of her visitations. Ms. Weng observed the children "light up" and it appeared that they did not want visitations to end. She testified that Mother was more mature and was trying to do what was best for her children. Although she never observed Mother leaving her children alone with Ms. Randazzo, she did state that she had concerns about Ms. Randazzo being around Mother's children.

¶24 The maternal grandmother, Shannon McMartin, testified about her relationship with Mother. Mother had filed some protective orders against Ms.

McMartin as retaliation for Ms. McMartin filing protective orders against Mr. Robbins after he threatened to kill her on a jail phone call. Despite this, Ms. McMartin provided positive testimony about Mother's recent behaviors and progress on her ISP. Ms. McMartin described instances where Mother would discuss what she learned about in her classes, and noted that Mother appeared more patient and had better coping skills. Since Mother had been living with Ms. McMartin, she had not had any contact with Ms. Randazzo, Mr. Watson, or Mr. Robbins. However, Ms. McMartin did state that she would be concerned if someone with an open child welfare case was around the children.

¶25 After the conclusion of the evidence, the jury returned a verdict terminating Mother's parental rights as to E.R., H.R, and O.R. pursuant to 10A O.S.2021 § 1-4-904(B)(5) based on her failure to correct the conditions that led to the deprived adjudication. The jury specified the following conditions that were not corrected: lack of proper parental care and guardianship, domestic violence, failure to maintain a safe and stable home, and threat of harm. The jury also found termination was in the children's best interest.

¶26 The district court filed an order memorializing the jury's verdict on December 16, 2024. Mother appeals.

## STANDARD OF REVIEW

¶27 In a case terminating parental rights, State must prove the statutory grounds for termination by clear and convincing evidence. *In re S.B.C.*, 2002 OK 83, ¶ 5, 64 P.3d 1080, 1082. “Our case law provides that clear 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 M.R.*, 2024 OK 28, ¶ 7, 548 P.3d 120, 125. We review the appellate record in a termination of parental rights case to determine whether State presented clear and convincing evidence at trial to support termination. *In re S.B.C.*, 2002 OK 83, ¶ 6, 64 P.3d at 1082-83. The paramount consideration is the child’s best interest. 10A O.S.2021 § 1-1-102(E).

¶28 Mother also challenges the district court’s decision to deny her waiver of jury trial in favor of a bench trial on constitutional grounds. We review this claim *de novo*. *In re F.B.*, 2025 OK 25, ¶ 6, 579 P.3d 1039, 1041, *modified*, July 1, 2025.<sup>6</sup> “In doing so, we determine whether the trial court’s decision was an abuse of discretion.” *Id.*

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<sup>6</sup> We briefly mention the subsequent history of *In re F.B.* for clarification. Initially, in *In re F.B.*, after determining the waiver of a jury trial for a parent’s failure to appear pursuant to 10A O.S. § 1-4-502(B) was constitutional, the Oklahoma Supreme Court determined that the record was silent as to whether mother had notice of the consequences of her failure to appear for jury trial. Accordingly, the case was remanded to the district court for an evidentiary hearing as to whether mother received sufficient notice and instructed the court to provide findings of fact and conclusions of law to the Oklahoma Supreme Court on this issue. After the hearing was held, the district court filed its findings and conclusions with the Oklahoma Supreme Court who

## ANALYSIS

### I. Clear and Convincing Evidence for Termination

¶29 Under 10A O.S.2021 § 1-4-904(A), to terminate parental rights, State must prove: (1) the children have been adjudicated to be deprived, and (2) that termination is in the children's best interests. State must also prove at least one ground for termination listed in Section 1-4-904(B).

¶30 There is no dispute that the children were adjudicated deprived and Mother does not challenge the jury's finding that termination was in the best interests of the children. Rather, Mother argues that State failed to present clear and convincing evidence to support termination of her parental rights under 10A O.S.2021 § 1-4-904(B)(5). Section 1-4-904(B)(5) provides that:

B. The court may terminate the rights of a parent to a child based upon the following legal grounds:

.....

5. A finding that:

- a. the parent has failed to correct the condition which led to the deprived adjudication of the child, and
- b. the parent has been given at least three (3) months to correct the condition[.]

¶31 Here, the jury determined that Mother failed to correct the following conditions: lack of proper parental care and guardianship, domestic violence,

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reversed the decision terminating mother's parental rights, as the district court determined that mother was not afforded notice that a failure to appear may result in a waiver of jury trial.

failure to maintain a safe and stable home, and threat of harm. Mother asserts that State failed to meet its clear and convincing burden on all four conditions.

Although Mother challenges termination on multiple grounds, this Court may affirm a termination order where only one statutory ground is met. *In re E.J.T.*, 2024 OK 14, ¶ 15, 544 P.3d 950, 957. We find State met its burden on the conditions of failure to maintain a safe and stable home and lack of proper parental care and guardianship.

¶32 While Mother made significant progress on her ISP and appeared to gain an understanding of various parenting skills and the impact of domestic violence, Mother still did not demonstrate behavioral changes to establish that she could actually implement everything she had learned. “[C]ompliance with the treatment plan alone does not demonstrate that the conditions have changed.” *In re A.W.*, 2011 OK CIV APP 27, ¶ 18, 250 P.3d 343, 348. “The test, however, is not whether [the parent] completed the plan but whether [the parent] corrected the conditions which led to the adjudication.” *In re K.C.*, 2002 OK CIV APP 58, ¶ 7, 46 P.3d 1289, 1291-92 (quoting *In re A.G. and E.G.*, 2000 OK CIV APP 12, ¶ 6, 996 P.2d 494, 497) (alterations in original).

¶33 At trial, State presented evidence about Mother’s most recent living conditions. Although Mother maintained a home, her decision to room with Ms. Randazzo was troublesome. The testimony at trial reflected that Ms. Randazzo

had an open DHS case involving her children. While the details were not fully shared with the jury, it appeared that Ms. Randazzo's case concerned sexual abuse. Every witness, except for Mother, testified that it was not safe for the children to be in a home with someone who had an open DHS case. The testimony reflected that Mother failed to take prompt action to correct this living condition despite being informed by her DHS caseworker that it was not appropriate and she would not be reunified with her children while she was living with Ms. Randazzo.

¶34 In addition, Mother's association with Mr. Watson was problematic. According to Ms. Shaw, Mr. Watson had a criminal history on OSCN. Although Mother disputed that history, it was still unsafe for Mr. Watson to be present at visitations where he was able to meet the children and foster parents. Mr. Watson was required to have a background check and be approved by DHS before interacting with the children. Despite being informed that Mr. Watson was not an appropriate person to be around her children prior to obtaining the required testing and approval, Mother became defensive and placed blame on DHS.

¶35 Further, through visitations, DHS and CASA workers observed issues with Mother's ability to parent her children. For instance, Mother did not fully grasp that it was not enough to lock a door to a location where medical marijuana was located instead of putting it in a location that was out of the children's reach. In addition, as Ms. Chapman testified to, Mother failed to take appropriate

disciplinary actions during visitations and would often place her own needs over her children's. Mother appeared to favor one child over another during visitations, and had to be reminded to spend equal time with each one. It was clear that the children experienced behavioral issues as a result of the lack of stability in their lives, as evidenced by H.R. and O.R. fighting with each other after they spent time with their Mother.

¶36 Ultimately, although Mother engaged in her services and could articulate the skills that she learned, Mother still did not demonstrate changed behaviors. She could not maintain a safe and stable home, continued to interact with individuals who were inappropriate for her children, and did not demonstrate proper parental care for E.R., H.R., and O.R. Thus, we affirm the jury's verdict on termination.

## **II. Constitutional Arguments Regarding Mother's Waiver of Jury Trial**

¶37 Mother also argues that the district court's decision to deny her waiver of a jury trial violates her constitutional rights. Essentially, Mother argues that the district court's application of the language in 10A O.S. Supp. 2023 § 1-4-502(B) violates her equal protection and due process rights.

¶38 A recent decision from the Oklahoma Supreme Court outlined the history of Section 1-4-502, which codified a parent's constitutional right to a jury trial in termination proceedings. It is a long-standing principle that "[a] parent has a constitutionally protected fundamental liberty interest in the bond with a child." *In*

*re F.B.*, 2025 OK 25, ¶ 7, 579 P.3d at 1041. “Parental rights ‘must be strenuously protected’ by ensuring a parent’s fundamental due process rights are preserved when the State seeks to destroy that bond.” *Id.* (quoting *In the Matter of the Adoption of L.B.L.*, 2023 OK 48, ¶ 11, 529 P.3d 175, 180). “Among those fundamental protections is the right to trial by jury.” *Id.*

¶39 As stated in *In re F.B.*, the Oklahoma Constitution was amended in 1969 to allow for a right to jury trial in juvenile proceedings. *Id.* ¶ 8, 579 P.3d at 1041. In interpreting this amended language, the Oklahoma Supreme Court determined “that parents have a constitutional right to jury trial in proceedings to terminate parental rights.” *Id.* “Given the importance of the right at stake,” it can “only be surrendered by consent or waiver.” *Id.*

¶40 The Legislature ultimately codified this right to jury trial in Section 1-4-502. In this case, Mother’s argument concerns the following language in the statute, which provides that “[t]he demand for a jury trial shall be granted unless waived, or the court on its own motion may call a jury to try any termination of parental rights case.” 10A O.S. Supp. 2023 § 1-4-502(B). Specifically, Mother takes issue with the last part of the statute, which allows the court to call a jury trial on its own motion. We do not view this as violating any of Mother’s constitutional rights.

¶41 When interpreting statutes, “[w]e must . . . give effect to the legislative intent and purpose expressed in its language.” *In re F.B.*, 2025 OK 25, ¶ 14, 579

P.3d at 1042. In considering the plain language of Section 1-4-502(B), we find that it clearly and unambiguously protects a parent's right to a jury trial in a termination proceeding. Not only does it require a court to call a jury trial when demanded and unless waived, but also gives the court the ability to call a jury trial on its own discretion. This language reinforces and ensures that a parent's fundamental rights related to their child are protected.

¶42 While Mother argues that allowing the court discretion to call a jury trial overrides her ability to waive her right to a jury trial and violates her rights, we do not find that argument persuasive. A parent does not have a constitutional right to a bench trial in a termination proceeding. By allowing the court to exercise discretion and call a jury trial, the legislature emphasized that there may be circumstances where a jury trial should be had even in cases where there has been a waiver. It is the court who is most familiar with the case's record, and the issues and parties before it. *See In re F.B.*, 2025 OK 25, ¶ 15, 579 P.3d at 1043.

¶43 Here, we do not find that the district court abused its discretion in calling for a jury trial in light of Mother's waiver. The court had already conducted a bench trial, was familiar with the issues and parties, and made a decision, as was statutorily allowed, to call a jury trial. Mother was not deprived of any of her constitutional rights related to her children by the court's exercise of its discretion.

We do not find error with the court's decision to call a jury trial although Mother waived her right to one.

### CONCLUSION

¶44 We find that State met its burden of proving the grounds for termination by clear and convincing evidence. In addition, we find Mother was not deprived of any constitutional rights in this case related to the court's decision to deny her waiver of a jury trial. We therefore affirm the district court's order.

¶45 **AFFIRMED.**

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

BLACKWELL, J., dissenting:

¶1 I respectfully dissent. As to the jury-versus-bench-trial issue, two questions are presented. The first is whether the relevant statute allowed the trial court to reject the mother's express, knowing, and voluntary waiver of her right to a jury trial in a termination proceeding where the mother, the state, and children all requested a bench trial and objected to a jury trial.<sup>1</sup> The majority answers in the affirmative, and I presume that to be correct here.

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<sup>1</sup> It is conceded that the mother's waiver was express, knowing, and voluntary. *See* Tr. (Dec. 9, 2024), pg. 5 ("COURT: Ms. Box, with her attorney, expressed that she wished to waive her right to jury trial, and proceed with this matter on a termination bench trial.... Everything I have seen, [it] seems to be a knowing, voluntary waiver by her."). The mother's attorney, the state's attorney, and the children's attorney all argued below that the court should proceed to a bench trial. *See, generally*, Tr. (Dec 9, 2024). The court, nevertheless, called for a jury.

¶2 However, neither the majority nor the trial court ever wrestled with the second question, which is whether the trial court abused its discretion<sup>2</sup> under the unique facts presented, where the trial court rejected the mother’s express, knowing, and voluntary waiver of her right to a jury trial, where the waiver was supported by both the state and the child’s attorney, and where the trial court gave no basis whatsoever for its rejection on the record.<sup>3</sup> It is axiomatic that the right to a jury trial “cannot be abrogated arbitrarily by a court ....” *Seymour v. Swart*, 1985 OK 9, ¶ 5, 695 P.2d 509, 511. I believe the corollary is equally true. Where a trial court denies a parent’s express, knowing, and voluntary waiver of the parent’s right to a jury trial without any explanation whatsoever, it has abused its

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<sup>2</sup> There is no doubt that abuse of discretion is the proper standard of review on this question. *Matter of J.L.O., IV*; 2018 OK 77, ¶ 22, 428 P.3d 881, 889 (“We review allowance or denial of waiver of the right to a jury trial for abuse of discretion.”).

<sup>3</sup> The state and the children both concede that it was error for the trial court to deny the mother’s waiver of a jury trial in this case. *Brief of Appellee Joined by the Child(ren)’s Attorney*, pg. 7 (“Appellee’s position is that if the parties’ waiver of a jury trial is valid, it shall be granted.”). Nevertheless—needing to come up with something—they argue that any error from the denial of the waiver was harmless. *See id.* at 8. This argument, to be frank, is ridiculous. There are pros and cons to every decision made in litigation. There are many occasions in which a well-informed litigant would opt for bench trial over a jury trial, should they have the option.

discretion.<sup>4</sup> I would vacate the judgment terminating the appellant's parental rights and remand for further proceedings.<sup>5</sup>

June 12, 2026

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<sup>4</sup> The closest thing to a reason given by the court was that “she has the right to a jury trial.” Tr. (Dec. 9, 2024), pg. 5. This sentiment was repeated several times. *See id.* (“The Court is still denying her request, and thinks that she has the right to a jury trial, and make (sic) exercise her right to a jury trial.”), 16 (“I’m going to ... [d]eny the parties request for a bench trial, believing that Ms. Box does have the right to a jury trial.”). While these are obviously accurate statements of law, they provide no explanation for *why* the trial court refused to accept the waiver.

The trial court also discussed a court's ability to refuse a waiver of a jury trial in a criminal case, stating, “In the criminal world all parties have to consent, and the Court is one of those parties that must consent.” *Id.* at 15. *See also id.* at 5. However, presuming this is an apt analogy, it only provides further justification for why a court *can* refuse a waiver of jury trial, not that it may do so without any reason whatsoever.

<sup>5</sup> Because I would decide this appeal on the procedural issue, I have not reviewed the mother's proposition of error based on the evidence presented.