

ORIGINAL



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COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

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JUN 26 2026

SELDEN JONES
CLERK

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF T.L., Alleged
Deprived Child:

STEPHAN LOVE,

Appellant,

vs.

STATE OF OKLAHOMA,

Appellee.

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Case No. 123,688

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE KEVIN MCCRAY, SPECIAL JUDGE

AFFIRMED

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For Appellant

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For Child

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

Stephan Love, father of the minor child at issue in this case, T.L., appeals from the court's order adjudicating T.L. deprived. Upon careful review, the order is affirmed.

I.

On September 2, 2025, the state filed an application to take T.L. into custody based on a referral alleging there was domestic violence in the home. At the time of his removal, T.L. was eight months old and living with his mother, Tara Wooster, Mr. Love, and two half siblings J.J., age twelve, and J.J., age seven. At the emergency hearing, the court found that the Indian Child Welfare Act applied to T.L. via Ms. Wooster.

The state filed a deprived petition on September 11, 2025. The petition alleged T.L. to be deprived as to Mr. Love for the allegations of failure to provide proper parental care and guardianship necessary for the child's physical and mental wellbeing and domestic violence. The state also filed a deprived petition alleging T.L. to be deprived as to Ms. Wooster for the same allegations. Ms. Wooster stipulated to the petition; however, Mr. Love requested a bench trial on adjudication.

A bench trial was held on November 26, 2025. The court heard testimony from an expert from the Caddo Nation, the DHS caseworker assigned to this case, Mr. Love, and a custodian of 911 calls. After hearing testimony and reviewing exhibits, the court sustained the allegations in the petition, adjudicating T.L. deprived as to Mr. Love based on lack of proper parental care and guardianship and domestic violence. The court also found that continued

custody by the parents was likely to result in serious emotional or physical damage to the child and that active efforts had been made to prevent the breakup of the Indian family. Mr. Love appeals from the court's order adjudicating T.L. deprived.

II.

Mr. Love first challenges the trial court's decision to admit hearsay statements of minor children over his objection at trial. The trial court's decision to admit or exclude evidence will not be reversed on appeal in the absence of a clear abuse of discretion. *B-Star, Inc. v. Polyone Corp.*, 2005 OK 8, ¶ 13, 114 P.3d 1082, 1085. An abuse of discretion involves a clearly erroneous conclusion, against the logic and effect of the facts presented. *See Oklahoma Turnpike Auth. v. Horn*, 1993 OK 123, ¶ 6, 861 P.2d 304, 306. Questions involving statutory interpretation are subject to *de novo* review. *Heffron v. District Court of Okla. County*, 2003 OK 75, ¶ 15, 77 P.3d 1069.

Mr. Love also alleges that the state failed to meet its burden to prove that T.L. should be adjudicated deprived. When an Indian child is involved, termination proceedings must comply with the Indian Child Welfare Act and Oklahoma's Indian Child Welfare Act. *See In re T.L.*, 2003 OK CIV APP 49, ¶ 11, 71 P.3d 43. Oklahoma courts have found that the "beyond a reasonable doubt" standard only applies to the factual determination required by 25 U.S.C.A. § 1912(f) to be made in ICWA termination cases; therefore, the state law-mandated burden of proof, is applicable to all other state law requirements for termination. *In re Adoption of R.L.A.*, 2006 OK CIV APP 138, ¶ 15, 147 P.3d 306,

310 (“[W]e join the courts of numerous other states, which have held that the state-law mandated burden of proof is applicable to state law requirements for termination and that the burden of proof provided in § 1912(f) applies only to the specific factual determination required by that section.”). Accordingly, regarding the issue of whether the state presented sufficient evidence to adjudicate the children as deprived, “the State must support the allegations in a petition seeking the adjudication of a child as deprived by a preponderance of the evidence.” *In re N.A.*, 2025 OK 22, ¶ 9, 567 P.3d 374, 378 (citing 10A O.S.2021 §§ 1-4-602, 1-4-603). On appeal from an order adjudicating a child deprived, the district court’s findings will be affirmed if supported by competent evidence. *Id.*

Additionally, § 1912(d) mandates that the state must show that active efforts have been made to provide remedial services to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

III.

A.

On appeal, Mr. Love first alleges that the trial court erred in admitting child hearsay statements over his objection. At trial, the state sought to admit a recording of a 911 call made by the elder J.J. to police. The state also sought to introduce testimony regarding statements made by both minor children to DHS caseworker, Ashton Madden. The state addressed its intent to introduce the hearsay statements of the minor children at trial before calling any witnesses. A review of the transcript reflects that Mr. Love’s objection to their admissibility and the state’s argument as to why the hearsay statements were admissible,

mostly pertained to the 911 call. Thus, we will review the admissibility of the recording of that call first.

The court and attorneys for each party engaged in a lengthy discussion at trial as to whether the 911 call was admissible as an exception to the hearsay rule under § 2803.1. However, because we find that the recording was clearly admissible under other exceptions to the hearsay rule, we decline to engage in the same exercise.¹

In the elder J.J.'s 911 call, she clearly states, in a teary voice, "my mom's boyfriend is putting his hands on her and he put his hands on me." *State's Exhibit 1* (audio recording). J.J. reports that she is "pretty sure" her mother is injured. Another female, presumably Ms. Wooster, is heard screaming in the background, and repeatedly yells "get out" and "get off of me" (or words to this effect), presumably at Mr. Love. These statements are clear examples of present sense impressions under 12 O.S. § 2803(1) because they describe an event while it was occurring or immediately thereafter. *See* 12 O.S. § 2803(1) (statements "describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter" are admissible); *see also Frederick v. State*, 2001 OK CR 34, ¶ 98, 37 P.3d 908, 935 ("Victim's reply that defendant was person in cousin's home, in response to cousin's question as

¹ While we decline to opine as to whether the statements made in the call fit neatly into § 2803.1, we do not agree with Mr. Love's contention that the "reasonable, plain meaning of the statute is the domestic abuse must occur with or on the child, *and* result in great bodily injury to be admissible." *Brief-in-Chief*, pgs. 2-3. The "great bodily injury" language in both parts of § 2803.1(A) appears to be tied directly and only to the "any act or omission" language of the final clause of each subsection.

to whose voice she heard in the background during their telephone conversation, was admissible in capital murder trial, under exception to hearsay rule allowing statements describing event or condition made while declarant was perceiving event or condition.”).

Some of the child’s statements, and certainly words of the mother’s screams in the background, also qualify as excited utterances under § 2803(2) because they were made while the declarant remained under the stress of the startling event. 12 O.S. § 2803(2) (statements “relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition” are admissible). *See also Hancock v. State*, 2007 OK CR 9, ¶ 83, 155 P.3d 796, 816 (overruled on other grounds) (“For a hearsay statement to be admitted as an excited utterance, three foundational requirements must be met: A startling event or condition; a statement relating to that startling event or condition; made while the declarant is under the stress of excitement by the startling event or condition.”). Still, other statements on the call qualify as “[a] statement of the declarant’s then existing state of mind, emotion, sensation or physical condition” 12 O.S. § 2803(3). And each of the statements—to the extent she made statements and not just interrogatories—of the 911 operator are not hearsay to begin with, as they were not offered for the truth of the matter asserted. *See* 12 O.S. § 2801(A)(3).

As a whole, the 911 call is a series of questions, which are not subject to the hearsay rule, statements that are not hearsay, or statements that are tried-and-true exceptions to the hearsay rule under 12 O.S. § 2803. As such, we affirm

the trial court's admission. While we do not hold that the trial court erred in admitting this evidence under § 2803.1, it was clearly admissible for the reasons stated above. We thus affirm the trial court's admission of the evidence. See *Harvey v. City of Oklahoma City*, 2005 OK 20, ¶ 12, 111 P.3d 239, 243 (holding that an appellate court may affirm a judgment based on a theory different from that reached by the trial court).

B.

Additionally, Mr. Love objects to DHS caseworker Ashton Madden's testimony about other instances when the girls reported witnessing physical altercations between Ms. Wooster and Mr. Love.² Regarding these statements, the state had filed a pretrial *Notice of Intent to Introduce Child Hearsay Statements*, pursuant to § 2803.1. Mr. Love did not object in writing, but did object before the trial commenced, and the trial court ruled in favor of the state.

We view the state's pretrial motion as form of motion in limine, and the court's pretrial ruling on the same as a ruling on that liminal motion. However, "[r]ulings on a motion in limine are advisory and preliminary in nature and error is committed, if at all, when a ruling is made during trial by the trial court." *Badillo v. Mid Century Ins. Co.*, 2005 OK 48, 121 P.3d 1080, n. 16. A contemporaneous objection must be made to any effort to offer testimony

² Specifically, Ms. Madden testified that the elder J.J. disclosed to her that Mr. Love had been physically abusive towards her mom, Tr. (November 24, 2025) pg. 63; that the younger J.J. reported an instance where Mr. Love had put his hands around her mother's neck and she observed that her mom was unable to breathe, *id.* at 64; and that both children also stated that the baby, T.L., was present during these instances of physical violence, *id.* at 65.

permitted by a motion in limine. *Farris v. Masquelier*, 2022 OK 91, ¶ 30, 524 P.3d 942, 952 (“A ruling on a motion in limine is preliminary and advisory in nature. A party aggrieved by such a ruling must raise the issue when it arises during trial, either by objecting when the challenged evidence is admitted or by making an offer of proof if the question involves excluded matter.”) (internal quotations removed).

A review of the record reveals that Mr. Love made no contemporaneous objection to the introduction of any testimony offered by Ms. Madden. As such, this issue was not preserved for appeal. *Bane v. Anderson, Bryant & Co.*, 1989 OK 140, ¶24, 786 P.2d 1230. (“A party who fails to preserve an issue for appeal by objecting in a timely manner to testimony ... has waived review of that issue in this court.”).

C.

Mr. Love also contends that the state did not meet its evidentiary burden to prove that T.L. should be adjudicated deprived. As stated above, “the State must support the allegations in a petition seeking the adjudication of a child as deprived by a preponderance of the evidence.” *In re N.A.*, 2025 OK 22, ¶ 9, 567 P.3d 374, 378 (citing 10A O.S. §§ 1-4-602, 1-4-603). On appeal from an order adjudicating a child deprived, the district court’s findings will be affirmed if supported by competent evidence. *Id.* Mr. Love specifically contends that the state did not meet its burden in this case because the evidence presented at trial showed that it was “impossible for the children to be afraid of this stay-at-home

father” and that the children “were not uncomfortable” with him. *Brief-in-Chief*, pg. 4.

The petition alleged that Mr. Love failed to provide the proper parental care and guardianship necessary for the child’s physical and mental well-being and that Mr. Love’s home was unfit for T.L. due to domestic violence. ROA 31, *Petition*, pg. 2. After the bench trial, the court adjudicated T.L. deprived as to Mr. Love on those same grounds. Thus, we must examine the evidence presented by the state demonstrating the lack of proper parental care and guardianship and instances of domestic violence in the home.

As stated above, the state introduced a 911 call into evidence, during which the elder J.J. called the police to report that Mr. Love had been physical with her and her mother. During the 911 call, Ms. Wooster and Mr. Love can be heard arguing and at one point Ms. Wooster screams “get off of me.” The elder J.J. also told Ms. Madden that Mr. Love had put his hands on her mother. Tr. (Nov. 24, 2025), pg. 63. Ms. Madden also testified that the younger J.J. reported a specific instance where Mr. Love’s hands were around her mother’s neck and she could not breathe. *Id.* at 64. Ms. Madden testified that the younger J.J. disclosed seeing bruises on her mother and that her mother had disclosed being fearful of Mr. Love. *Id.* at 65. Both girls maintained that T.L. was present during these physical altercations. Further, Ms. Madden testified that Ms. Wooster reported that Mr. Love would take her keys when they argued to prevent her from leaving. *Id.* at 66. Additionally, when asked about whether she was choked by

Mr. Love, Ms. Wooster replied that while she did not specifically recall that happening, she acknowledged that it likely did. *Id.*

During Mr. Love's testimony, he testified regarding a motion for protective order that was filed by Ms. Wooster in 2024. *Id.* at 29-29. In the motion, Ms. Wooster stated that she and Mr. Love had been arguing, and she wished to leave their home to deescalate the situation. *Id.*, Exhibit 2. She stated that Mr. Love physically tried to stop her from leaving the home and tried to restrain her. *Id.*

Ms. Madden testified that when she spoke to Mr. Love, he admitted that he and Ms. Wooster would argue but denied ever being physical with her. *Id.* at 66. When asked if DHS was concerned about Mr. Love's lack of concern for the domestic abuse that occurred in the home, Ms. Madden testified: "So it is a concern when there's not an acknowledgment of a safety concern in the home, especially with vulnerable children involved. It's hard to fix—correct conditions that you don't acknowledge were there to begin with." *Id.* at 69. Ms. Madden also stated that it was DHS's recommendation that the child in this case be adjudicated deprived. *Id.* at 70.

Kathy Butler, expert witness for the Caddo Nation, also testified at trial. Her testimony is reflected in a document titled "Expert Testimony pursuant to the Indian Child Welfare Act." ROA 62. Both in the document, and at trial, Ms. Butler maintained that continued custody of T.L. by Mr. Love was likely to result in serious emotional or physical damage to the child until he has corrected the conditions leading the court to find the child to be deprived. *Id.*; Tr. (Nov. 24, 2025), pg. 73.

Based on the foregoing, we find that the allegations in the petition—failure to provide proper parental care and guardianship and domestic violence—were supported by sufficient evidence. Both of T.L.’s half siblings lived in the home with Ms. Wooster and Mr. Love. The siblings were able to recall various instances where Mr. Love was physically abusive to Ms. Wooster, and that T.L. was present during these altercations. One such altercation apparently resulted in Ms. Wooster filing a motion for a protective order. Meanwhile, another altercation escalated to the point where the elder minor child, J.J., called 911. Ultimately, the record shows that there were multiple disclosures regarding domestic violence in the home and Mr. Love’s failure to acknowledge the safety concerns regarding those instances suggests that he is not able to provide proper parental care and guardianship for T.L. Thus, we find that the adjudication order in this case was supported by competent evidence, including the testimony of expert witness Ms. Butler, that custody by the parent was likely to result in serious emotional or physical damage to the children.

AFFIRMED.

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

June 26, 2026