

In re Interest of L.J., J.J, and J.N.J

Caselaw No.

220 Neb. 102

Filed on

Friday, May 31, 1985

SUMMARY: The rehabilitation plan must be reasonable and under the direction of the juvenile court. Siblings have the right to know each other. Delays in progression of the case due to court or agency conduct cannot be used to justify termination of parental rights due to the child's bonding with the foster parents.

L.J., DOB 11/24/76, J.J., DOB 7/13/78, and J.N.J., DOB 9/6/79, are the children of G.J. A petition was filed on October 22, 1979, alleging neglect but not brought to court after a ?Stipulation and Agreement? was signed on November 1, 1979, between the mother and the county attorney wherein it was agreed the children would be returned immediately. On February 11, 1980, the children were placed in foster care after J.N.J. was left with a babysitter for 10 days, 7 days longer than planned. Other allegations included leaving the young children at home while the mother dropped off a vacuum cleaner, leaving the children in a car outside a tavern while the mother was inside and checking in periodically, and once leaving the children with young babysitters until 2:30 a.m. After the hearing began, another ?Stipulation and Agreement? was reached where the mother gave up custody of the children and agreed to an investigation, to provide a stable home and to seek treatment.

There were no court hearings until a petition to terminate parental rights was filed on June 17, 1981. Trial was held on February 3, 1982. Evidence focused on the financial ability of the mother, the writing of bad checks and failure to complete a parenting class (although she completed 10 classes). On May 19, 1982, the court entered an order terminating parental rights effective on December 31, 1982, unless the mother satisfactorily rehabilitated. A rehabilitation plan was created by DHHS and required the mother to undergo counseling, parenting classes and psychotherapy, obtain proper housing, attend AA meetings, attend visitation and pay \$150 per month in child support. The mother and her husband had monthly income of \$600-700 and the children were placed in separate homes a long distance from her. In January 1983, the court determined that the mother had not complied with the rehabilitation plan and terminated her parental rights. The mother appealed.

The Nebraska Supreme Court reversed and remanded. It first held that isolated incidents in 1979 were not sufficient to establish ?substantial and continuous or repeated neglect? under 43-292. It further held that when a rehabilitation plan is made, it must be under the direction of the court and must be reasonable. In this case, the mother wouldn't be able to comply with the plan because she was poor and at a great distance from the children. The Supreme Court disapproved of terminating parental rights on a future date, even more so when the burden of proof is shifted to the parent. It also disapproved of the long lapses in the case without court participation, and any argument that attempts to justify termination in this situation on the basis of bonding with the foster parent. Finally, the court noted that ?juvenile court must recognize, if possible, the rights of siblings. In this case J.N.J. has the right to know his older brother and sister, and the older children have the right to know their younger brother.? 220

Neb. at 114.

Tags

brother,
case plan,
court,
delay,
delays,
finances,
financial,
L.J.,
oversight,
parental rights,
plan,
poor,
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rehabilitation,
rehabilitation plan,
sibling,
siblings,
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termination
