

In re Interest of C.A.A.

Caselaw No.

No. 87-684, 87-685; 229 Neb. 135, 425 N.W.2d 621 (1988)

Filed on

Friday, July 8, 1988

Summary: Termination of parental rights was appropriate where both parents were unable to discharge parental responsibilities due to mental illness and the condition was reasonably thought to continue for a prolonged, indeterminate period and the only valid defense for abandonment was the mental illness.

A petition was filed on June 13, 1984 alleging that two children, C.A.A. (date of birth unknown) and another (unnamed, date of birth unknown), were persons under § 43-247(3). After a hearing on August 1, 1984, the court held the children were within § 43-247(3) and placed the children in temporary care, custody, and control of the Nebraska Department of Social Services. A Protective services worker set up a visitation schedule. However, the mother and father were out of communication with the workers while in Texas between November 1984 and February 1985. Once they returned the worker immediately implemented the visit schedule. Between February 8 and September 6, 1985 the parents attended one visit. In 1986, visits were prearranged for the second Monday of each month. The mother did not attend visits in April, May, June, or July. In February 1986, the father was charged with attempted incest and sexual assault for incidents with his daughters in June and May of 1984. He pleaded guilty to the charges and was sentenced as a mentally disordered sex offender. Motions to terminate parental rights for both parents were filed April 14, 1987 and a hearing was held on July 1, 1987. The court found it in the best interest of the children to terminate the parental rights of both the mother and father. Specifically, the court found the parents had abandoned their children for 6 months or more, that the parents were unable to discharge parental duties because of mental illness or deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged, indeterminate period.

The Nebraska Supreme Court affirmed. The parents challenged the sufficiency of the evidence of abandonment, pointing to sporadic contact with the foster families. The court found that while each parent could make an argument that the mental illness caused them to abandon the children, it would provide support for the allegations that the mental illnesses render them unable to discharge parental duties, grounds for termination of parental rights. The mother argued that the state had other options, such as a guardianship, to termination, that even though she could not provide for the child at home on her own, she could retain a relationship with her children. The Court concluded that failure to terminate in appropriate cases was punishing the child for the state of their natural parents.

Tags

termination of parental rights; C.A.A.,

L.A.,

W.A.,

mental illness,

abandonment,

mental deficiency,

sexual assault,
incest
