

In re Interest of Alexandria et al.

Caselaw No.

A-14-610

Not Designated for Permanent Publication

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Summary: The Court of Appeals affirmed the Otoe County order terminating the parental rights of Brett H. over his four children. The father argued that the court erred in terminating his rights because the evidence was insufficient, there was a due process violation and the judge erred in denying his motion for recusal. The Court of Appeals found the father's arguments to be without merit and affirmed that termination was in the children's best interests.

This case was previously before the Court of Appeals, *In re Interest of Jacob H.*, 20 Neb. App. 680 (2013). In that case the Court of Appeals reversed the termination of parental rights finding insufficient evidence that termination was in the children's best interests. In May 2013, the State filed a new motion for termination of parental rights. The father motioned for the judge to recuse himself because he had presided over the prior termination proceeding. The Court of Appeals affirmed this was insufficient to raise questions as to the judge's impartiality and there was no evidence to suggest impartiality. The Court of Appeals also found that grounds for termination existed under 43-292(7) as the children were in out-of-home placement for 15 of the most recent 22 months.

The Court of Appeals also found that there now was sufficient evidence to show that termination of parental rights. The first time the case was on appeal, the evidence only showed a single relapse combined with other progress on the part of the father. The evidence presented at the second termination proceedings showed continued methamphetamine use and a meth distribution conviction. Further a psychological evaluation of the father found a number of clinical risk factors regarding Brett's ability to parent. A psychologist also conducted a visitation assessment, in which all four children expressed a desire to cease contact with their father. It was the opinion of the psychologist that contact with their father was not in their best interests. Finally, there was testimony at the termination hearing from the triplet's therapist about progress the triplets had made, and his opinion that regression would occur if they had contact with their father. The therapist for Brett's other child also testified that placing him with his father would not be in his best interest. As such, the Court of Appeals affirmed that there was clear and convincing evidence that termination was in the children's best interests and the decision of the trial court was affirmed.

Tags

Alexandria,

Jacob,

termination,

insufficient,

best interests,

recusal,

