

In re Interest of Nettie F.

Caselaw No.

295 Neb. 117

Filed on

Friday, November 18, 2016

SUMMARY: The adoptive parents of Nettie F.'s sibling filed a complaint to intervene on the sibling's behalf in order to seek guardianship over Nettie as the child's pre-adoptive placement and facilitate a joint-sibling placement. This was originally permitted by the lower court but vacated by that court upon the motion of the Guardian Ad Litem in favor of a limitation on the prospective adoptive parents allowing them only to present evidence on their qualifications to be Nettie's adoptive parents.

After an evidentiary hearing, the juvenile court found both the child's pre-adoptive parents and her sibling's adoptive parents to be equally qualified as a placement, but that a joint-sibling placement would be contrary to her safety and well-being due to the negative effects of disrupting the child's current placement with her foster parents. The child's sibling appealed the orders vacating intervention and denying joint-sibling placement.

The adoptive parents, on behalf of the sibling, contend on appeal that the juvenile court erred in vacating the original order and violating the sibling's due process rights. However, in its review the Supreme Court determined that it did not have jurisdiction over the appeal, as an adjudicated child's sibling has no right to appeal a juvenile court's placement under the statute. The Supreme Court noted that § 43-1311.02(1)(a) requires the Department of Health and Human Services to make reasonable efforts to place adjudicated siblings in the same foster or adoptive placements, but it does not bestow any rights upon the sibling to appeal an order of the juvenile court. Further, the Court cited *In re Interest of Enyce J. & Eternity M* where it was held the foster parents do not have standing to appeal from an order changing a child's placement and *In re Interest of Jorius G. and Cheralee G.* which only grants standing to foster parents to intervene in a proceeding to consider a proposed placement change. The Court also considered subsequent statutory developments and the resulting case law as meaning that a foster parent does not have an interest in the placement of an adjudicated child sufficient to warrant intervention in juvenile proceedings as a matter of right. Further, § 43-2, 106.01 does not authorize an adjudicated child's sibling to appeal from an adverse placement order.

The Supreme Court concluded that the sibling did not have the ability to appeal because the Legislature has not authorized an adjudicated child's sibling right to appeal under § 43-2,106.01. Thus, the Supreme Court dismissed the appeal by the child's sibling.
