

In re Interest of Jaxyn S.

Caselaw No.

No. A-16-495

Filed on

Tuesday, November 29, 2016

SUMMARY: The father of Jaxyn appeals the lower courts finding of Jaxyn to be a juvenile as defined by § 43-247(3)(a). The father asserts that insufficient evidence was produced to support this conclusion.

Prior to this finding, the State filed a petition seeking to adjudicate Jaxyn under § 43-247(3)(a) in relation to his mother due to her homelessness, absenteeism, lack of proper housing or care, and deficiency of her supervision. Following the filing, Jaxyn was placed in the care of his paternal grandparents, where his father also lived as a condition of his participation in drug court following a history with methamphetamines. Jaxyn's father subsequently left the home in favor of a sober living housing establishment but did not take his son with him. The State then filed a petition to adjudicate Jaxyn within the meaning of § 43-247(3)(a) as to his father as well due to inadequate housing, improper care, and inability to give substantial custodial care while he underwent treatment for his drug addiction.

At the subsequent hearing, the assigned caseworker recalled several interviews with Jaxyn's father where it he stated that his grandparents would be the best option for Jaxyn's care and that they were currently providing all of his care and supervision. The grandmother testified that they had been involved since birth and always around when Jaxyn was with his father. As a result the lower court found Jaxyn within the meaning of § 43-247(3)(a).

In its review, the Court of Appeals found that there was no indication that the lower court abused its discretion in its finding. The Court looked specifically to the testimony of the caseworker and the product of her interviews with Jaxyn's father where he specifically stated that he was not capable of caring for his son in favor of focusing on his sobriety. Other testimony indicated that Jaxyn had never been independently cared for by his father and the situation required significant and regular intervention from his grandparents.

The Court concludes that this evidence is sufficient beyond a preponderance of the evidence in light of the State's allegations. Thus, it affirms the lower courts finding.
