

In re Interest of LeVanta S.

Caselaw No.

295 Neb. 151

Filed on

Friday, December 2, 2016

SUMMARY: The Douglas County separate juvenile court adjudicated twin brothers LeVanta S. and ReRonn S. under Neb. Rev. Stat. § 43-247(3)(c) as "mentally ill and dangerous" and placed in out-of-home care after an initial filing for trespass and truancy which was later dropped when it was determined they were not competent to be tried.

At the lower court hearings, evidence was presented of the brothers' poor judgment, fighting, anger management deficiencies, and other violent behaviors. It was also revealed that LeRonn often refused to take his medications. The parents did not have representation during these initial hearings and did not attend the disposition hearings, possibly as a result of not being prior notified. The lower court later found that reasonable efforts had been made to return the brothers to their parents' custody but that it was in their best interests to remain in DHHS custody.

Continued lower court hearings sought reunification but further events changed progress to this end: LeRonn threw a mailbox through the front window of his father's house and LeVanta had a behavioral regression of his own and began arguing with his parents. As a result, the court revisited their DHHS placements and eventually adopted the permanency objective of guardianship given the proximity of the boys to the age of majority. This order was not concurrent to a reunification permanency objective.

LeVanta and LeRonn's mother and father appealed the order for each child in a consolidated action alleging that the lower court erred in the permanency objective change and violated their due process rights in the process.

In its review, the Supreme Court first considered whether the lower court erred in changing the permanency objective. In considering the allowances of the court under § 43-1312.01 and the occurrences here, the Supreme Court found that the statute does not give the juvenile court the authority to adopt a permanency objective of guardianship in this case under § 43-247(3)(c) without a subsection (3)(a) adjudication. Thus, the Supreme Court concludes that the juvenile court exceeded its authority. Being that the lower court's permanency order was being overturned based on the merits, the Supreme Court did not consider the due process rights violation argument.

The order is reversed and the matter remanded for further proceedings.
