

# In re Interest of Zachary B.

## Caselaw No.

No. S-17-466

## Filed on

Friday, March 2, 2018

**Summary:** Zachary B. appeals an order of the Separate Juvenile Court ordering that he be placed in Boys Town. The Court finds that this is not a final order and so dismisses the appeal.

In March 2016, Zachary was adjudicated to be a juvenile within the meaning of Neb. Rev. Stat. § 43-247(3)(b) for truant behaviors and was placed on probation with terms including to attend school. In January 2017, the State moved to revoke his probation for failure to comply with those terms. At a hearing in April 2017, the Court entered an order continuing jurisdiction for good cause. The Court also found that all available community based services had been exhausted. The Court stated that it was not making a final order, but would order Zachary to be placed at Boys Town and to continue disposition for 60 days.

Zachary assigns error to the Court removing him from his home, and that there was insufficient evidence that community resources had been exhausted and that maintaining him in his home would create a risk of harm to him or the community.

A jurisdictional question is a matter of law. *In re Interest of Becka P. et al.*, 296 Neb. 365 (2017).

An appellate court has jurisdiction to review "[a]ny final order or judgment entered by a juvenile court?" Neb. Rev. Stat. s. 43-2,106.01(1). Final orders include:

1. An order which affects a substantial right and which determines the action and prevents a judgment,
2. An order affecting a substantial right during a special proceeding,
3. An order affecting a substantial right made on summary application in an action after judgment is rendered. Neb. Rev. Stat. § 25-1902, *In re Interest of Becka P. et al.*, supra.

A juvenile court case is a special proceeding, and so what the Court must now decide is whether the order affected a substantial right. *Id.*

Courts have decided in the past that juveniles have a substantial right to remain in his or her home. Neb. Rev. Stat. § 43-251.01(7). However, the Court also has to decide whether the effect of the order up for debate is substantial. See *In re Interest of Noah B. et al.*, 295 Neb. 764 (2017). Because this order is temporary in nature placing Zachary for a brief period of time. Therefore it is not appealable.

The appeal is therefore dismissed for lack of jurisdiction.

---