In re Interest of Paxton H.

Caselaw No.
No. S-17-1182
Filed on
Friday, July 6, 2018

Summary:

DHHS challenges an order out of the separate juvenile court of Lancaster County that ordered it to arrange and pay for Paxton H. to receive services at a facility in Kansas. The Court here finds that the order was in the child?s best interests and therefore affirms.

In December of 2014, DHHS filed a no fault petition that Paxton, then 11, came within the meaning of Neb. Rev. Stat. § 43-247(3)(a). Paxton has several diagnoses, including PTSD, TBI, ADHD, reactive attachment disorder, and disruptive mood dysregulation disorder. Paxton had been placed out of the home several times. Most recently, he was returned home from a residential treatment facility and was assaultive. The Court ordered that DHHS take him into custody until placement could be found at a PRTF.

No residential facility in Nebraska would accept Paxton, but KidsTLC in Kansas, a residential treatment facility, would. He had lived at KidsTLC for about a year in 2015 and was returned there in July 2016. In July 2017, Paxton was still at KidsTLC, but was having home visits with his parents and there was a recommendation to transition him home in August 2017. Services Paxton would require included regular medication management with a physician and psychiatrist, services at school, individual therapy, weekly bloodwork, and others. None of these services were in place as of July 2017. The Court ordered Paxton?s transition home and also that services be put into place immediately upon his discharge.

Paxton was discharged in September of 2017. His parents asked that DHHS arrange for him to participate in the transition program at KidsTLC in Kansas. DHHS refused to do so because they felt they should be using Nebraska services. His parents filed a motion to compel DHHS to arrange services at KidsTLC. At the hearing, the caseworker testified that DHHS had not provided services to Paxton immediately upon his discharge and that his Medicaid had not yet been activated and so he had not seen his therapist, received his medication, or seen a psychiatrist. He had been without services in the 11 days since he was released. At the hearing, the Court found that it was in Paxton?s best interests to participate in the KidsTLC transition program and ordered DHHS to arrange transportation and pay for it. The Court also acknowledged that DHHS had not created a plan for Paxton in Nebraska, even though such a plan was critical.

DHHS appealed, assigning error that the Court ordered DHHS to arrange and pay for Paxton to participate in the KidsTLC program.

An appellate court reviews juvenile cases de novo on the record. In re Interest of Josue G., 299 Neb. 784 (2018). An order directing DHHS to pay for costs of treatment is a final order. See In re Interest of J.M.N., 237 Neb. 116 (1991).

Juvenile Courts of have broad authority to make orders that are in the best interests of

juveniles based on Neb. Rev. Stat. § 43-285 which states, in relevant part, ?[DHHS] shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it.? Neb. Rev. Stat. § 43-285(1), emphasis added. Therefore, the Court can disagree with the recommendation of DHHS.

The Court here agrees with the Juvenile Court?s exercise of authority in light of Paxton?s history and need for immediate mental health services. DHHS had not arranged for the necessary services, but KidsTLC had them available. The argument of DHHS that Paxton would be better served by services in Nebraska rely on a faulty premise that these services are available ? the Court was not even presented with any local options. At some point Paxton could transition to local services, but as that issue is not on appeal. The decision of the Juvenile Court is affirmed.