

In re Interest of Joshua G.

Caselaw No.

No. A-17-1309

Filed on

Tuesday, October 9, 2018

Summary:

Fred G appeals the order of the county court for Scotts Bluff County which terminated his parental rights to his son, Joshua G. The Court finds Fred's assertion to be without merit, and affirms the decision of the county court to terminate his parental rights.

On May 10, 2016, the State filed a juvenile court petition alleging that Joshua was a juvenile as described by Neb. Rev. Stat. § 43-247(3)(a). The petition stated that his parents, Fred and Martha, failed to provide Joshua with safe and stable housing and necessary care.

Fred attended the first appearance hearing in May 2016 and the contested adjudication hearing in August 2016 along with subsequent hearings that were held through April 2017. At a hearing in July 2017, Fred did not appear. The State offered evidence that demonstrated he had not participated in any services, including visitation with Joshua, since April. Martha informed the court that Fred was no longer in Nebraska and that she did not believe he was going to return.

On September 13, 2017, the State filed a motion to terminate Fred's parental rights to Joshua. The State filed for a motion of service by publication on October 12, 2017. The county court granted the state's motion and this notice and the date of hearing was published in a Scottsbluff newspaper.

Fred did not appear at the termination hearing on November 20, 2017. At this hearing the State presented evidence in support of its motion to terminate Fred's parental rights. Part of the State's evidence addressed the uncertainty of Fred's current whereabouts. When Breanna Bird, the DHHS caseworker assigned to the family's case, attempted to contact Fred he said he was "in a different time zone" but provided no further information.

On appeal, Fred asserts that the State's affidavit for service by publication was legally insufficient and that, as a result, he was denied due process because he did not receive proper notice of the termination proceedings.

The State argues that Fred has waived his objections to any insufficiency in the service of process because he failed to object to the service at any time prior to the conclusion of the termination hearing. The Court's record on appeal provides sufficient evidence to demonstrate that the state conducted a reasonably diligent search for Fred and that service by publication was proper. Since Fred removed himself from the state in the middle of the juvenile court proceedings and failed to provide anyone with his contact information, the State was unable to serve him with the motion to terminate his parental rights either personally or by mail. Upon the Court's review of the record, they find that Fred's assertion lacks merit.

Upon the Court's review, the State made a reasonably diligent search for Fred to notify him of

the pending termination proceedings. Because the State was unable to locate Fred after that search, service by publication was proper and Fred was not denied his right to due process. The Nebraska Supreme Court affirms the order of the county court to terminate Fred's parental rights to his son Joshua.
