

# In re Interest of Aly T. & Kazlynn T.

## Caselaw No.

No. A-17-1237

## Filed on

Tuesday, November 27, 2018

**Summary:** Tiffany S. appeals the order terminating her parental rights to her daughters out of the Douglas Separate Juvenile Court. She argues that she was not given enough time to rehabilitate herself, the caseworker should not have been allowed to give an expert opinion, and that terminating her parental rights was not in her children's best interests. The Court here affirms.

For a full recitation of the facts of this case, see the summary for In re Interest of Jade H. et al., 25 Neb. App. 678 (2018). A petition for the children was filed as to their mother in October 2016. Adjudication was held in April 2017 and the Court found that the children were neglected children. At disposition in June 2017, Tiffany was ordered to participate in IOP, undergo a psychiatric evaluation, participate in medication management, submit to random drug testing, abstain from drugs and alcohol, and participate in supervised visitation. In August 2017, the state filed a TPR petition against Tiffany and alleged that her rights should be terminated pursuant to Neb. Rev. Stat. § 43-292(2) and (6). The motion alleged basically that Tiffany failed to participate in her case plan.

Trial was held in October and Tiffany did not appear.

The caseworker testified about Tiffany's long non-compliance with her case plan, including undergoing a chemical evaluation, but not following up with its recommendation for a psychiatric evaluation and outpatient treatment; refusal to do UA's (77 ordered, 42 unsuccessful); not showing up for visitation, which led to her visits being reduced to one time per week for 1-2 hours; the only family team meeting she attended was at court in April. The caseworker testified that in her opinion termination of Tiffany's rights would be in the children's best interests because she had been working for over a year with Tiffany and not making any movement toward even monitored visits.

The visitation supervisor also testified that when Tiffany would not show up for a visit, Aly would cry and cry. She also testified that Tiffany would not show good parenting skills, especially related to Aly's limitations caused by her brain injury.

Tiffany appeals, assigning error as discussed above.

An appellate court reviews juvenile cases de novo on the record. In re Interest of LeVanta S., 295 Neb. 151 (2016).

TPR has eleven statutory bases, any one of which, if proven by clear and convincing evidence, will result in a TPR. Tiffany says she was not given enough time to rehabilitate herself. The Court acknowledges that she was not given as much time as in some cases, but she was given enough time to comply with at least some of the provisions, which she chose not to do. Because of the evidence presented, the Court finds that there was a statutory basis to terminate her rights based on § 43-292(6), and so does not address § 43-292(2) as only

one ground must be proven.

Turning to the best interest portion of the TPR, the Court addresses whether the caseworker could be an expert. The Nebraska Rules of Evidence do not apply in TPR cases, but due process controls. See *In re Interest of Destiny A. et al.*, 274 Neb. 713 (2007). Because Stevenson was the only caseworker and had given specific testimony about Tiffany's compliance with her case plan, and because Tiffany had a chance to cross-examine her, the Court finds that it was fine to use her opinion.

To determine best interests, the Court starts with a presumption that fit parents act in their children's best interests. Tiffany proved herself to be an unfit parent in her noncompliance and very little effort toward reunification. She has not shown a desire to parent. TPR is in the children's best interests.

The Court did not err in terminating Tiffany's rights and so the order is affirmed.

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