

In re Interest of Brooklyn T. & Charlotte T.

Caselaw No.

No. A-18-518

Filed on

Tuesday, December 11, 2018

Summary: Amanda T. appeals an order from the Douglas Separate Juvenile Court terminating her rights to her children, Brooklyn and Charlotte. The Court here affirms the decision.

Brooklyn was born in 2016 and Charlotte was born in 2018. In July 2017, the State filed a petition against Amanda as to Brooklyn based on a prior history with DHHS and her drug use. Brooklyn went into foster care. In August, the State amended the petition and filed a TPR as well. Adjudication happened in October, where Amanda admitted to the charges related to Neb. Rev. Stat. § 43-247(3)(a) and the State withdrew the TPR.

In February 2018, the state again filed a motion for TPR and then filed a supplemental petition to include Charlotte for both neglect and TPR. When Amanda gave birth to Charlotte, she tested positive for amphetamine. The petition also alleged that Amanda had been disengaged in her case plan.

A hearing was held on the TPR and adjudication and Amanda pled to portions of the termination petition and supplemental petition. Amanda was found to have made the admissions freely and voluntarily and then the Court asked for a factual basis for the pleas, including that it was in Charlotte and Brooklyn's best interests to have Amanda's rights terminated.

Amanda assigns error that the State did not have clear and convincing evidence to find that termination was in the best interests of the children.

An appellate court reviews juvenile cases de novo on the record and comes to an independent conclusion. *In re Interest of Noah B. et al.*, 295 Neb. 764 (2017).

In a TPR under Neb. Rev. Stat. § 43-292, the State must prove by clear and convincing evidence that one of the statutory grounds exists and that termination is in the best interests of the child. Amanda admitted to Neb. Rev. Stat. § 43-292(2). Courts may accept admissions to allegations in TPR cases and then must solicit a factual basis under Neb. Rev. Stat. § 43-279.01. See *In re Interest of Zanaya W. et al.*, 297 Neb. 20 (2015).

Here, because Amanda admitted both to the ground and that termination was in her children's best interests, the Court needed only solicit the factual basis. Neb. Rev. Stat. § 43-292(2) addresses termination when a parent has substantially and continuously neglected and refused to protect a child. Here, the factual bases provided was that Amanda had her Brooklyn removed for her drug use, she was to engage in services, which she did not do and in fact she had another child born who tested positive for drugs. This factual basis was sufficient for the ground.

The factual basis to support that termination was in the children's best interests was that she

had a history with DHHS, she did take part in the services offered to her, and she used meth during her pregnancy. She also made no effort to get Brooklyn home and was discharged unsuccessfully from family support and visitation services and did not participate in the evaluations offered to her. This is a sufficient factual basis. She has not demonstrated that she is willing to have a good relationship with her children.

The assigned error was without merit and the order is affirmed.
