

# In re Interest of Donald B. and Devin B.

## Caselaw No.

No. A-18-675

## Filed on

Tuesday, April 16, 2019

## Summary:

In this case Candice I., the mother, voluntarily relinquished her parental rights to Devin B. during the termination for parental rights (TPR) hearing. This was the third TPR petition filed by the state against the mother, the petition also include Donald B. The mother agreed to enter an admission to certain allegations contained in the third motion for termination as it related to Devin, and the State agreed in exchange to dismiss the motion's remaining allegations and remove Donald from the motion altogether. The State and Candice agreed that her admission would be treated as a voluntary relinquishment of her parental rights with respect to Devin so as to prevent the State or any other party from using the termination of her rights as to Devin against her with respect to Donald or any other child. The state entered a factual basis on the record and the court accepted the factual basis and found that Candice's admission was knowingly, intelligently, and understandingly made.

The court entered an order dated June 8, 2018, which stated that termination of Candice's parental rights was in Devin's best interests and that it therefore accepted Candice's voluntary relinquishment of her parental rights with respect to Devin. In the same order, the court also noted that the permanency planning objective with respect to Donald was reunification concurrent with guardianship. Candice now appeals.

Candice argues that the juvenile court erred in accepting her admission to allegations in the termination motion as a voluntary termination of her parental rights with respect to Devin and further erred in terminating her parental rights with respect to one of her two sons but not the other. Candice's argument is twofold: 1) that the court had no authority to accept her relinquishment pursuant to Nebraska law, and 2) that the court cannot terminate on one child and not the other.

The Court of Appeals decision states that § 43-279.01(3) empowers juvenile courts to accept a parent's in-court admission of the allegations in a petition for the termination of parental rights so long as there also exists a factual basis for the admission (which Candice did not dispute). The Court also states that the two cases Candice's cited in her brief were not analogous to the present case.

The Court of Appeals found that Candice's second argument, namely that a court cannot terminate on one child and not the other, is not supported in Nebraska case law. The Court states in their opinion that there have been some instances that it is appropriate to terminate parents' rights with respect to some, but not all, of their children. In *In re Interest of Justin H. et al.*, 18 Neb. App. 718, 791 N.W.2d 765 (2010). Moreover, the termination in the present case was voluntary. Candice admitted that the factual basis was true and that it was in Devin's best interests to have her parental rights terminated. Candice also waived her rights and entered her admission with full knowledge of the repercussions. The Court found her argue without merit and affirmed the order of the juvenile court that terminated Candice's

parental rights with respect to Devin but not Donald.

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