

# In re Interest of LeAntonaé D

**Caselaw No.**

A-19-703

**Filed on**

Friday, April 17, 2020

**Summary:** Stacy is the biological mother of LeAntonaé D., Le?Than P., Le?Anthony D., Le?Yonnie D., and Legend D. The children?s father was subject to the same judicial proceedings but was not part of the appeal. LeAntonaé and Le?Than have been in foster care since December 2017. Le?Anthony and Le?Yonnie have been in out-of-home placement since September 2018. Legend has been in out-of-home placement since March 2019.

In September 2018, LeAntonaé and Le?Than were adjudicated to be children within the meaning of Neb. Rev. Stat. § 43-247(3)(a) because Stacy failed to provide proper parental care, support, and/or supervision for the children and, subsequently, they were at risk for harm. In November 2018, the juvenile court stated that the permanency objective as to LeAntonaé and Le?Than was reunification.

In April 2019, the juvenile court adjudicated Le?Anthony, Le?Yonnie, and Legend to be within the meaning of § 43-247(3)(a) based on Stacy?s admission to the allegations that she currently had an open juvenile docket; that she failed to reunify with her children under that docket; and that the children were at risk of harm.

On May 21, 2019, the juvenile court refused to adopt the DHHS? recommendation that the permanency objective for all five children be changed to reunification concurrent adoption. Instead, the court ceased further reasonable efforts at reunification and returned the case to DHHS for ?alternative permanency planning recommendations.? At a hearing on June 20, 2019, the court changed the recommended permanency objective from reunification to adoption.

Stacy filed her notice of appeal on July 18, 2019, stating that she intended to appeal the court order dated June 21, 2019. On appeal, Stacy argued that the juvenile court erred by failing to order a rehabilitation plan, in determining that reasonable efforts at reunification were not required, and by failing to hold a hearing under Neb. Rev. Stat. § 43-283.01(6).

The issue in this case is a jurisdictional one. Before reaching the legal issues presented for review, the appellate court must first determine whether it has jurisdiction over the matter before it. An order in a juvenile court proceeding is final and appealable if it affects a parent?s substantial right to raise her child. *In re Interest of Octavio B. et al.*, 290 Neb. 589 (2015).

Stacy?s assignments of error and arguments on appeal all relate to the hearing on April 30th and the subsequent court order filed on May 21st. However, Stacy waited to file her appeal until after the June 21st order. If the May 21st order affected Stacy?s substantial right, it had to be appealed within 30 days of that order. However, if the May 21st order was part and parcel of the June 21st order, then Stacy?s appeal was timely, and the Court of Appeals has jurisdiction.

The April 30th hearing was an original disposition and permanency planning hearing for

LeAnthony, LeYonnie, and Legend. It was a review and permanency planning hearing for LeAntonaé and LeThan. In general, dispositional orders are final and appealable. However, a review order does not affect a parent's substantial right if the court adopts a permanency plan that is almost identical to the plan that the court adopted in a previous disposition.

The subsequent May 21st order rejected the requirement for further reasonable efforts and a permanency objective of reunification. The May 21st order affected Stacy's substantial right to raise her children because the order to cease reasonable efforts was an important step in proceedings that could lead to the termination of Stacy's parental rights. This May 21st order was a final, appealable order and should have been appealed within 30 days.

However, while the May 21st order ceased reasonable efforts and rejected a permanency plan of reunification, it did not specify a new permanency plan. A new permanency plan of adoption was not implemented until the June 21st order. Stacy did timely appeal the June 21st order, but none of her assignments of error or arguments were specific to the June 21st order. All of Stacy's assignments of error related to the May 21st order. The Court held that Stacy could not use an appeal of the June 21st order to collaterally attack the earlier May 21st order.

The Court of Appeals dismissed Stacy's appeal for lack of jurisdiction.

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