

IN RE INTEREST OF TANNER H. & TA?NNYA H

Caselaw No.

28 Neb. App. 711

Filed on

Tuesday, August 4, 2020

Summary:

This is an appeal from the biological maternal grandmother regarding her intervenor status, the appeals court found she lacked standing to appeal the separate juvenile court's order and dismissed the appeal for lack of jurisdiction.

Shearetta, the biological maternal grandmother, who had also been the foster placement for the children for a time, had been allowed to intervene in the case even though her rights to the mother of the children had been terminated and the mother of Tanner and Ta?nnya had relinquished her rights to the children. During an adoption review hearing the lawyer for the Foster Care Review Board made an oral motion to revoke Shearetta's intervenor status. It was the Foster Care Review Office's position that Shearetta's status had been reduced to a "foster parent" and that foster parents do not have the right to intervene in any case. The attorney for Shearetta argued that neither the State nor the guardian ad litem had objected to granting her intervenor status. The juvenile court granted the oral motion to revoke stating that Shearetta's standing was also at issue and now the a motion to revoke has been made and needs to be addressed. The county attorney and Shearetta's attorney argued that the motion should be set for a hearing as no notice was given. While acknowledging the lack of notice the juvenile court stated that it would take judicial notice of the file and the fact that the biological mother had in fact relinquished her parental rights, so setting a hearing would not change the facts. Shearetta appeals the juvenile court decision to revoke her intervenor status given she was not given any notice that her intervention in the case was at risk.

Shearetta relied on Neb. Rev. Stat. § 43-2,106.01 (Reissue 2016), as the basis for the appeals court's jurisdiction for this appeal, which states: "(2) An appeal [of any final order or judgment entered by a juvenile court] may be taken by: (a) The juvenile; (b) The guardian ad litem; (c) The juvenile's parent, custodian, or guardian." However, Shearetta is, at best, only a foster parent. The Court held that while grandparents have a direct legal interest in juvenile dependency proceedings involving their biological or adopted grandchildren Shearetta rights as a grandparent were altered once her own daughter relinquished her parental rights to Shearetta's grandchildren. As a foster parent, Shearetta's right to participate is limited. A foster parent is entitled to notice of hearings, but notice "shall not be construed to require that such foster parent . . . is a necessary party to the review or hearing." Neb. Rev. Stat. § 43-1314(2) (Reissue 2016). The court further states that a foster parent may have a role in a juvenile proceeding, but it does not confer on him or her a right, title, or interest in the subject matter of the controversy. *In re Interest of Enyce J. & Eternity M.*, 291 Neb. 965, 870 N.W.2d 413 (2015). Also as held in *In re Interest of Jackson E.*, 293 Neb. 84, 875 N.W.2d 863 (2016), the right to appeal in juvenile case is purely statutory, and neither foster parents nor grandparents, as such, have statutory right to appeal from juvenile court order pursuant to §

43-2,106.01(2).
