

2024 Case Law Update

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THE INFORMATION AND ANALYSIS IN THIS PRESENTATION DOES NOT REFLECT THE POSITION OR OPINIONS OF THE OFFICE OF THE ATTORNEY GENERAL.

Idaho Supreme Court

IDHW v. John Doe, Docket No. 50795

Parent counsel requested three brief filing extensions.

- The Supreme Court granted two requests but denied the third.
- Parent counsel failed to file by the second deadline.
- Appeal **denied**, matter referred to the Idaho State Bar for “possible discipline of counsel”
- **Takeaway: Rule 21 of the Idaho Appellate Rules provides that “[f]ailure of a party to timely take any other step in the appellate process shall not be deemed jurisdictional, but may be grounds only for such action or sanction as the Supreme Court deems appropriate, which may include dismissal of the appeal.”**

IDHW v. Jane Doe & John Doe, Docket Nos. 50868 & 50897

Appeal from adjudicatory decree, **AFFIRMED**

Helpful Takeaway: “The CPA does not require a magistrate court to determine the identity of the first child’s abuser in order to conclude another child in the same household is at risk of being a victim of abuse or neglect under subsection 16-1603(2)(b), particularly when the same people in the home have access to both children and the same parents are obligated to protect both children from such abuse.”

Magistrate appropriately approved request for judicial notice during trial. I.R.C.P. 7(b)(1)(A), I.R.E. 201(d).

Magistrate had sufficient evidence to decline parents’ motion for directed verdict.

Magistrate did not shift burden to parents to show Infant was not at risk of being victim because Infant remained in the home under protective supervision.

IDHW v. John Doe, Docket No. 50875

Appeal from redeposition of protective supervision to legal custody, **AFFIRMED**

Recent rule amendments mean a party to a CPA case may bring a direct permissive appeal to IDSC from orders in I.C. 16-1625(1)

Sufficient evidence at Redisposition hearing supported removal

Magistrate's failure to make detailed written factual findings harmless error

- The checkbox mandatory form for redisposition is inadequate

Preponderance of the evidence standard for redisposition does not violate parents' fundamental rights

IDHW v. Jane Doe and John Doe, Docket No. 51562 & 51565

Appeal from adjudicatory decree, **AFFIRMED**

Direct permissive appeal to Idaho Supreme Court from magistrate court.

This decision has the standard of proof explanations for permissive appeal in CP case, constitutional issues, and application of legislative acts, jurisdiction, and justiciability.

Court declines to address parents' claim of improper removal re: *Ingram v. Mouser* due to failure to preserve the issue for appeal.

TAKEAWAY: There is no authority to support the claim that dismissal of the CPA proceedings is warranted if the State violates 4th or 14th amendment rights during emergency removal.

Court declines to overrule Idaho Ct. of Appeals 150 Idaho 103 that says exclusionary rule does not apply to CPA cases.

IDHW v. Jane Doe and John Doe, Docket No. 51562 & 51565 CONTINUED

Shelter care order is not reviewable on appeal due to lack of jurisdiction and mootness.

- This does not violate parents' constitutional rights under the due process clause of the 14th amendment (substantive or procedural).
 - "For over a century, the United States Supreme Court has reiterated that the availability of appellate review is not a component of due process"
- Does not violate the Equal Protection Clause of the 14th Amendment
 - Strict scrutiny for fundamental rights of parents

Magistrate did not abuse discretion by permitting the older children to remain in the courtroom.

Parents did not demonstrate the magistrate's decision to confer party status to the children implicated a substantial right, so the court did not rule on the argument.

- Suggests that a child, especially over the age of 12, may be considered a party to a CPA case (dicta).

Substantial competent evidence supported the magistrate's adjudicatory decree.

Court decline to consider argument that the decree violated the Parental Rights Act because it was raised for the first time on appeal.

Idaho Court of Appeals

PUBLISHED OPINIONS

IDHW v. Jane Doe, Docket No. 50905

Appeal from termination of parental rights, **AFFIRMED**

Sufficient evidence to support statutory basis for TPR.

Sufficient evidence to support BIOC.

Sufficient evidence to support ICWA Active Efforts.

Takeaways:

- **Cite to the record in the argument section of your brief. I.A.R. 35(a)(6).**
- **Support your legal arguments with case law.**

IDHW v. Jane Doe, Docket No. 51088

Appeal from district court's intermediate appellate decision, **AFFIRMED**

District Court Appeals Explained

- **Court of Appeals reviews District Court decision to determine whether substantial and competent evidence supported the MAGISTRATE court's finding.**
- **Court of Appeals decision will affirm or reverse the decision of the DISTRICT court.**

IDHW must consent to an adoption arising out of a CPA case.

Exercise of residual parental rights is not absolute and must comply with legal procedure and designation of authority.

Magistrate was not required to consider Mother's preference for adoptive placement.

IDHW v. Jane Doe, Docket No. 51581

Appeal from TPR **AFFIRMED**

Takeaway– be sure to include a standard of review to match the basis for the appeal.

Takeaway– back up your legal argument with citation to authority.

Case plan admitted at trial without objection and testimony from witnesses about the case plan provides clear and convincing evidence supporting the magistrate's conclusion the exhibit was a copy of the court ordered case plan.

Challenges to circumstances arising in the Child Protective Act are irrelevant to termination proceeding.

Mother had notice of the case plan based upon her presence at and participation in hearings where modifications were discussed, counsel was served with copies of the case plan, and Mother discussed the case plan tasks with the case manager, etc.

Allegations of abuse are sufficient for a finding of neglect.

Other standard findings.

IDHW v. John Doe, Docket no. 51601

Appeal from termination of parental rights, **AFFIRMED**

State's petition was sufficiently pled.

Father had notice of the case plan.

Father neglected his children by failing to complete the case plan.

Father's constitutional challenge to 16-2002(3)(b) as applied fails.

- There is no federal constitutional standard for parental unfitness

Idaho Court of Appeals

UNPUBLISHED OPINIONS

IDHW v. John Doe, Docket No. 50785

Termination of parental rights, **AFFIRMED**

The Department's efforts at reunification should be addressed during the CPA proceedings by motion or argument to the court under I.C. § 16-1622(2)(g)(iii). *In re Doe*, 156 Idaho at 688 n.3, 330 P.3d at 1046 n.3.

While a case plan may provide, as Doe claims, a “road map” as to what steps a parent needs to accomplish in order to regain custody of a child, it does not delimit the bases for finding neglect under I.C. § 16-2002(31)(a). Regardless of any tasks in a case plan, Doe would still need to demonstrate the skills, abilities, and wherewithal to parent Child.

IDHW v. Jane Doe, Docket No. 50818

Appeal from TPR, **AFFIRMED**

Motion for continuance is within the discretion of the magistrate.

- Includes the abuse of discretion multi factor test.
- “Determining whether the court perceives an issue of discretion can be established in two ways, by explicit statements of the court or by implication based on the record.”
- Proper to deny the Motion for a continuance based on statutes that address timelines for permanency, and because all parties had the opportunity to respond to the motion.

Mother did not challenge ground for TPR.

TPR in BIOC

- Discussed the impact of incarceration on BIOC.

IDHW v. Jane Doe, Docket No. 50948

Appeal from TPR, **AFFIRMED**

Cannot appeal shelter care order at TPR.

Cannot appeal aggravated circumstances order at TPR.

Magistrate did not abuse its discretion by denying request for a third continuance.

Magistrate appropriately denied Mother's Motion to withdraw waiver of notice and appearance to TPR .

Reasonable efforts not relevant to TPR

Substantial and Competent Evidence Supported TPR ground and BIOC.

Discussion of Ineffective Assistance of Counsel.

Takeaway : ad hominem attacks on the magistrate court are unpersuasive

IDHW v. Jane Doe, Docket No. 51005

I.C. § 16-1622(2)(g)(i) does not provide a basis for a parent's motion for compelling circumstances.

Takeaway : IAR 35(d) requires brief/reply to reference the minor child by initials or a designation other than the minor's name.

Substantial and competent Evidence supported ground for TPR and BIOC.

IDHW v. Jane Doe, Docket No. 51383

Appeal from TPR, **AFFIRMED**

Magistrate may consider “a child’s improvement in a foster home or a permanent placement option,” under the BIOC analysis, but is not **REQUIRED** to consider placement in a termination decision.

IDHW v. Jane Doe, Docket No. 51608

Appeal from TPR, **AFFIRMED**

Takeaway: Reunification efforts with siblings is not relevant to TPR decision (specifically BIOC analysis).

Honorable Mentions

All TPRs **AFFIRMED**

IDHW v. Jane Doe, Docket No. 51142

IDHW v. Jane Doe, Docket No. 51327

IDHW v. Jane Doe, Docket No. 51602

IDHW v. John Doe, Docket No. 51609

IDHW v. Jane Doe, Docket No. 51707

IDHW v. Jane Doe, Docket No. 51840

Trends

- Court of Appeals appears less willing to address reasonable efforts arguments.
- Both Courts point out the need to **cite to the record in the argument section** of a brief.
- Both Courts decline to address legal arguments unsupported by authority.
- Many procedural appeals this year. Rules around direct appeals continue to evolve.
- In several appeals, parents only challenged BIOC or statutory grounds, but not both.
- Several appeals failed for issue preservation reasons.