

SUPREME COURT OF THE STATE OF IDAHO

In the Matter of the Termination of the Parental Rights of Jane Doe  
(2017-6) and John Doe (2017-7)

162 Idaho 280 (2017) · No. 44795-2017 / 44796-2017 · Decided June 20, 2017

SUMMARY

The Idaho Supreme Court affirmed judgments terminating the parental rights of Jane Doe and John Doe in their seven minor children. The court held that substantial and competent evidence supported findings that the father had abused and neglected the children and that the mother had neglected them by failing to protect them from the father’s abuse. The court also upheld findings that termination was in the children’s best interests.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Idaho                                                                                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Eismann, Justice; Burdick, Chief Justice; Jones, Justice; Horton, Justice; Brody, Justice                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | Idaho                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | June 20, 2017                                                                                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | 44795-2017 / 44796-2017                                                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Parents appealed magistrate-court judgments terminating their parental rights in seven minor children.                                                                                                                                                                                                                                                                                             |
| STANDARD OF REVIEW    | The trial court must find grounds for termination by clear and convincing evidence. On appeal, the court does not reweigh the evidence and will not disturb findings expressly made under the clear-and-convincing standard unless they are unsupported by substantial and competent evidence. The trial court determines witness credibility, the weight of testimony, and reasonable inferences. |
| PRECEDENTIAL VALUE    | Published Idaho Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                                                                               |
| PARTIES               | Jane Doe (2017-6), John Doe (2017-7) v. Idaho Department of Health and Welfare                                                                                                                                                                                                                                                                                                                     |

TOPICS

termination of parental rights

parental rights

family law procedure

hearsay

appellate procedure

## PRACTICE AREAS

family law

termination of parental rights

evidence

appellate procedure

## QUESTIONS PRESENTED

1. Whether substantial and competent evidence supported termination of Father's parental rights based on statutory grounds including sexual abuse, neglect, and incarceration.
2. Whether the unobjected-to hearsay evidence supporting the finding that Father sexually abused the oldest daughter could support termination.
3. Whether termination of Father's parental rights was in the best interests of the seven minor children.
4. Whether substantial and competent evidence supported termination of Mother's parental rights based on neglect for failing to protect the children from Father.
5. Whether termination of Mother's parental rights was in the best interests of the seven minor children.

## HOLDINGS

1. Hearsay evidence admitted without objection may be considered in determining the facts, with the trial court deciding the weight to give the evidence. The finding that Father sexually abused the oldest daughter was supported by substantial and competent evidence.
2. The magistrate court properly terminated Father's parental rights because statutory grounds existed and termination was in the children's best interests. The unchallenged incarceration ground independently supported termination as to the six youngest children, and the sexual-abuse ground supported termination as to the oldest minor child.
3. Substantial and competent evidence supported the finding that Mother neglected the children by failing to provide care or control necessary for their well-being after knowing or having reason to know that they were unsafe around Father.
4. Substantial and competent evidence supported the finding that termination of Mother's parental rights was in the best interests of the seven minor children.

## KEY QUOTATIONS

*“On appeal, the appellate court does not reweigh the evidence to determine if it was clear and convincing.”*  
(162 Idaho 280, 282)

*“[O]nce the State is aware of circumstances indicating a child faces potential harm, it should not have to wait to intervene until that child suffers actual harm or illness, but rather should act to prevent it.”* (162 Idaho 280, 287)

## FACTUAL BACKGROUND

Father sexually molested multiple daughters over many years and ultimately pleaded guilty in Washington to three counts of first-degree felony child molestation, receiving a ten-year prison sentence and lifetime supervision. Mother knew or had reason to know that Father was sexually abusing the children, failed to protect them, and on one occasion instructed the oldest daughter to lie to Washington authorities. After the parents violated a community safety plan and planned to move the children to Washington, the Department removed the seven minor children and sought termination of both parents' rights.

## PROCEDURAL HISTORY

The Idaho Department of Health and Welfare filed a petition to terminate both parents' parental rights after the children were removed under the Idaho Child Protective Act. Following a two-day evidentiary hearing, the magistrate court found statutory grounds for termination by clear and convincing evidence and determined that termination was in the children's best interests. Both parents timely appealed.

## DISPOSITION

affirmed

## CASES CITED

- Dep't of Health & Welfare v. Doe, 149 Idaho 207, 210, 233 P.3d 138, 141 (2010)
- State v. Doe, 144 Idaho 534, 535, 164 P.3d 814, 815 (2007)
- Anderson v. Harper's, Inc., 143 Idaho 193, 195, 141 P.3d 1062, 1064 (2006)
- KMST, LLC v. Cnty. of Ada, 138 Idaho 577, 581, 67 P.3d 56, 60 (2003)
- Gem-Valley Ranches, Inc. v. Small, 90 Idaho 354, 371, 411 P.2d 943, 953 (1966)
- In re Doe (2014-22), 157 Idaho 955, 342 P.3d 667, 670 (2015)
- In re Doe, 152 Idaho 910, 914, 277 P.3d 357, 361 (2012)
- Idaho Dep't of Health & Welfare v. Doe, 150 Idaho 36, 43, 244 P.3d 180, 187 (2010)

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