

SUPREME COURT OF NEBRASKA

In re Interest of Giavonni P.

304 Neb. 580 (2019) · No. Nos. S-18-1130, S-18-1135 · Decided November 22, 2019

SUMMARY

The Nebraska Supreme Court affirmed orders placing Giavonni P. at the Lincoln Regional Center. The court held that the juvenile court’s orders were final and that the appeals, although moot after Giavonni’s transfer, warranted review under the public interest exception. It further held that the juvenile court had authority under Nebraska law to order the placement, while emphasizing that courts may not prioritize individuals in the Lincoln Regional Center’s admissions process.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	November 22, 2019
DOCKET	Nos. S-18-1130, S-18-1135
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Nebraska Department of Health and Human Services appealed orders of the Separate Juvenile Court of Douglas County directing that Giavonni P. be placed at the Lincoln Regional Center. Although the appeals became moot after Giavonni was transferred to an out-of-state psychiatric residential treatment facility, the Nebraska Supreme Court reached the merits under the public interest exception to mootness.
STANDARD OF REVIEW	Juvenile cases are reviewed de novo on the record, with the appellate court reaching its conclusions independently of the juvenile court's findings. Statutory interpretation is reviewed independently as a question of law.
PRECEDENTIAL VALUE	published opinion
PARTIES	Nebraska Department of Health and Human Services v. State of Nebraska

TOPICS

appellate procedure

final judgment rule

mootness

statutory interpretation

administrative law

PRACTICE AREAS

juvenile law

appellate procedure

administrative law

health law

QUESTIONS PRESENTED

1. Whether the juvenile court's placement orders were final and appealable despite their conditional language.
2. Whether the placement orders affected a substantial right of the Nebraska Department of Health and Human Services.
3. Whether the appeals were moot after Giavonni was transferred from the Lincoln Regional Center, and whether the public interest exception permitted review.
4. Whether the juvenile court had statutory authority to place Giavonni at the Lincoln Regional Center.
5. Whether the juvenile court's orders improperly interfered with the Department's authority over Lincoln Regional Center admissions, discharges, and patient prioritization.
6. Whether placement at the Lincoln Regional Center was contrary to Giavonni's best interests.

HOLDINGS

1. The juvenile court's orders were final and appealable because, when read together with the subsequent November 27 placement orders, they were not conditional judgments.
2. The placement orders affected a substantial right of the Department and therefore qualified as final orders under Neb. Rev. Stat. § 25-1902.
3. The appeals were moot because Giavonni was no longer placed at the Lincoln Regional Center, but the court properly reached the merits under the public interest exception to mootness.
4. The juvenile court had authority to order Giavonni placed at the Lincoln Regional Center when his health or condition required treatment or special care.
5. The placement was not outside the juvenile court's authority on the theory that the Lincoln Regional Center was a detention facility, because Nebraska law defines the Lincoln Regional Center as a hospital.
6. The statutes governing the Department's control over Lincoln Regional Center admissions, transfers, and patient management did not eliminate the juvenile court's authority to order the placement.
7. Given the lack of other available placements and Giavonni's treatment and safety needs, placement at the Lincoln Regional Center was in his best interests at the time of placement.

KEY QUOTATIONS

“But we also agree with the Department that given that other juveniles are being placed at the LRC (or indeed that Giavonni could be returned to the LRC) due to a lack of other adequate programming, we should reach the merits of these appeals under the public interest exception to the mootness doctrine.” (589)

“The juvenile court has the power to assent to or dissent from the “care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it.”” (590)

“While we agree that an adult facility is not the optimal choice for a juvenile offender, given the lack of other options and Giavonni’s needs, placement at the LRC was in his best interests at the time of his placement.” (592)

FACTUAL BACKGROUND

Giavonni P. had been adjudicated under Nebraska's juvenile code and had experienced multiple placements, including a psychiatric residential treatment facility in Michigan. At that facility he fled, engaged in violent behavior and property destruction, refused therapy and medication, and continued to exhibit aggression after returning to Nebraska. Evidence showed that he required treatment in a secure facility, but available psychiatric residential treatment facilities either could not admit him because of his history or lacked space. The juvenile court therefore ordered placement at the Lincoln Regional Center if an appropriate psychiatric residential treatment facility placement was not obtained.

PROCEDURAL HISTORY

Giavonni's guardian ad litem moved for a change from his Michigan psychiatric residential treatment facility placement. After a placement review hearing, the juvenile court ordered that he be placed in an appropriate secure psychiatric residential treatment facility by November 26, 2018, or, failing that, at the Lincoln Regional Center until further order. Giavonni was placed at the Lincoln Regional Center, and the Department appealed. He was later transferred to an out-of-state facility, rendering the appeals moot, but the Supreme Court invoked the public interest exception and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019)
- Jensen v. Jensen, 275 Neb. 921, 750 N.W.2d 335 (2008)
- In re Interest of Michael N., 302 Neb. 652, 925 N.W.2d 51 (2019)
- State ex rel. Peterson v. Ebke, 303 Neb. 637, 930 N.W.2d 551 (2019)

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