

SUPREME COURT OF THE STATE OF IDAHO

Jane Doe v. John Doe

No. 53148-2025 and 53137-2025, Supreme Court of the State of Idaho (May 12, 2026)

SUMMARY

The Idaho Supreme Court addresses whether indigent parents in privately initiated termination-of-parental-rights proceedings have a statutory or constitutional right to appointed counsel, including on appeal. The court holds that the former version of Idaho Code section 16-2009 did not create a statutory right to appellate counsel, while the current statute may require appointed counsel on a case-by-case basis under due process principles. The court also addresses responsibility for appellate records, transcripts, and related costs, concluding that necessary appellate materials must be provided at public expense.

CASE DETAILS

COURT	Supreme Court of the State of Idaho
WRITING FOR THE COURT	Brody, Justice; Bevan, Chief Justice; Moeller, Justice; Zahn, Justice; Meyer, Justice
JURISDICTION	Supreme Court of the State of Idaho
DECIDED	May 12, 2026
DOCKET	53148-2025 and 53137-2025
DISPOSITION	remanded
PROCEDURAL POSTURE	The Idaho Supreme Court consolidated two appeals from private termination-of-parental-rights judgments and issued an order to show cause concerning appointed counsel and appellate record and transcript costs.
STANDARD OF REVIEW	The court applied de novo principles to statutory interpretation and constitutional due-process questions, while recognizing that the initial Lassiter appointment-of-counsel determination is made by the magistrate court subject to appellate review.
PRECEDENTIAL VALUE	published
PARTIES	John Doe v. Jane Doe

TOPICS

termination of parental rights

parental rights

procedural due process

appellate procedure

statutory interpretation

PRACTICE AREAS

family law

constitutional law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the prior version of Idaho Code section 16-2009 provided an indigent parent in a private termination case with a statutory right to appointed counsel on appeal.
2. Whether due process may require appointment of counsel at public expense for an indigent parent opposing a privately initiated termination of parental rights.
3. Whether an indigent parent determined to be constitutionally entitled to counsel at the termination hearing is also entitled to appointed counsel on appeal.
4. Whether private termination proceedings involve sufficient state action to trigger procedural due process protections.
5. Whether the State Public Defender or Idaho counties have a statutory obligation to provide constitutionally required representation in private termination cases after the 2025 amendments to Idaho Code section 19-6009.
6. Whether an indigent parent appealing a judgment terminating parental rights is constitutionally entitled to the record and transcripts necessary for meaningful appellate review at public expense.
7. Whether county district court funds must bear the cost of appellate records and transcripts when an indigent parent is not represented at public expense.

HOLDINGS

1. The version of Idaho Code section 16-2009 in effect in 2023 provided an indigent parent a statutory right to counsel at the termination hearing before the magistrate court, but did not extend that statutory right to an appeal.
2. Due process may require appointment of counsel at public expense for an indigent parent opposing a privately initiated termination of parental rights, but counsel is not categorically required. The determination must be made case by case by the magistrate court after a hearing applying the *Lassiter* and *Mathews v. Eldridge* factors.
3. When a magistrate court determines under *Lassiter* that an indigent parent is entitled to counsel in a termination proceeding, the parent is also entitled to appointed counsel on appeal from the judgment terminating the parent-child relationship.
4. Private termination proceedings involve sufficient state action to trigger procedural due process protections, even though the petition is filed by a private party.
5. After the 2025 amendments to Idaho Code section 19-6009, neither the State Public Defender nor Idaho counties can be required by that statute to provide representation in private termination cases, although

either may do so voluntarily. The statutory gap does not eliminate the parent's constitutional due-process right, and a termination judgment entered without constitutionally required counsel may be vacated or subject to collateral attack.

6. Every indigent parent appealing from a judgment terminating the parent-child relationship is constitutionally entitled to the record and transcripts necessary for meaningful appellate review at public expense, regardless of whether the termination was privately initiated or whether the parent is entitled to appointed counsel.
7. When an indigent parent appealing a termination judgment is not represented at public expense, the record and transcripts necessary for appeal must be provided at public expense, with the costs paid from the district court fund of the county in which the action was filed.

KEY QUOTATIONS

“Where an indigent parent opposes a petition for termination of parental rights in a private termination case, is unrepresented, and requests counsel, the magistrate court must conduct a hearing in accordance with Lassiter to determine whether due process requires that counsel be appointed.” (13)

“Accordingly, we hold that where a magistrate court determines that an indigent parent is entitled to counsel under Lassiter, the parent is also entitled to counsel on appeal.” (22)

“Every indigent parent appealing from an order terminating the parent-child relationship is entitled to have the record and transcripts necessary for appeal provided at public expense.” (24)

“Whether or not an indigent parent is entitled to appointed counsel, they are constitutionally entitled to be provided a transcript and record necessary for appeal at public expense.” (29)

FACTUAL BACKGROUND

Both cases involved incarcerated fathers whose parental rights were terminated in proceedings initiated by private parties rather than by the State. In the Kootenai County case, county-funded counsel represented the father through the termination hearing but sought to withdraw from the appeal. In the Canyon County case, county-funded counsel represented the father, and the State Public Defender challenged responsibility for appellate transcript costs. The cases raised the effect of 2025 amendments limiting the State Public Defender's statutory responsibilities to specified proceedings.

PROCEDURAL HISTORY

In the Kootenai County case, the magistrate court terminated the incarcerated father's parental rights after appointing counsel at county expense; counsel sought to withdraw from the appeal because he did not handle appellate matters. In the Canyon County case, the magistrate court likewise terminated the incarcerated father's parental rights, appointed county-funded counsel, and an order directed the State Public Defender to pay transcript-preparation costs; the State Public Defender objected. The Supreme Court consolidated the appeals, ordered briefing, heard argument, and temporarily remanded both matters for proceedings consistent with its opinion.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The consolidated matters were temporarily remanded under Idaho Appellate Rule 13.3 for further proceedings consistent with the opinion, including proceedings addressing counsel and appellate record and transcript obligations.

CASES CITED

- Act of Mar. 19, 1963, ch. 145, § 9, 1963 Idaho Sess. Laws 420, 427-28
- Roe v. Doe (In re Adoption of Doe), 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006)
- Troxel v. Granville, 530 U.S. 57, 65 (2000)
- Doe I v. Doe (2020-49) (In re Doe II), 169 Idaho 170, 179-80, 492 P.3d 1129, 1138-39 (2021)
- Santosky v. Kramer, 455 U.S. 745, 754 (1982)
- Lassiter v. Department of Social Services of Durham County, N.C., 452 U.S. 18 (1981)
- Mathews v. Eldridge, 424 U.S. 319, 335 (1976)
- Stanley v. Illinois, 405 U.S. 645, 651 (1972)
- M.L.B. v. S.L.J., 519 U.S. 102 (1996)
- Doe I v. Doe (2024-23) (In re Doe II), 175 Idaho 412, 566 P.3d 409, 432 (2025)
- Connecticut v. Doe, 501 U.S. 1, 11 (1991)
- Idaho Dep't of Health & Welfare v. Doe II (In re Doe), 149 Idaho 474, 477-78, 235 P.3d 1195, 1198-99 (2010)
- L.E.S. v. C.D.M. (In re Adoption of K.A.S.), 390 P.3d 278, 287-88 (Utah 2016)
- State, Dep't of Health & Welfare v. Doe (In re Baby Doe), 130 Idaho 47, 52, 936 P.2d 690, 695 (Ct. App. 1997)
- Gagnon v. Scarpelli, 411 U.S. 778, 790 (1973)
- Turner v. Rogers, 564 U.S. 431 (2011)
- Lugar v. Edmondson Oil Co., 457 U.S. 922, 924 (1982)
- Herrera v. Estay, 146 Idaho 674, 681, 201 P.3d 647, 654 (2009)
- Sniadach v. Family Finance Corp. of Bay View, 395 U.S. 337, 341-42 (1969)
- Meisner v. Potlatch Corp., 131 Idaho 258, 954 P.2d 676 (1998)
- Murray v. Dalton, 174 Idaho 593, 558 P.3d 1057 (2024)
- Nicholson v. Bennett (In re Guardianship of Doe), 166 Idaho 720, 725, 462 P.3d 1184, 1189 (Ct. App. 2020)
- Griffin v. Illinois, 351 U.S. 12 (1956)
- Douglas v. California, 372 U.S. 353, 357-58 (1963)
- Scott v. Illinois, 440 U.S. 367, 372-73 (1979)
- State v. Rhoades, 120 Idaho 795, 806, 820 P.2d 665, 676 (1991)
- State v. Blazek, Nos. 51842 & 52307, 2024 WL 4982927 (Idaho Dec. 5, 2024)
- State v. Coronado, 98 Idaho 421, 565 P.2d 1378 (1978)

- Johnson v. Jones, 105 Idaho 602, 603-04, 671 P.2d 1065, 1066-67 (1983)
- Schmelzel v. Board of Commissioners of Ada County, 16 Idaho 32, 35, 100 P. 106, 107 (1909)

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