

NEBRASKA SUPREME COURT

In re Interest of Steven S.

299 Neb. 447 (2018) · No. No. S-17-1155 · Decided March 23, 2018

SUMMARY

The Nebraska Supreme Court reviewed a juvenile court's order transferring Steven S.'s escape case to county court. The court held that such transfer decisions are reviewed de novo on the record for an abuse of discretion and affirmed the transfer after balancing the statutory factors, including Steven's history of unsuccessful juvenile interventions and public safety concerns.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Miller-Lerman, J.; Stacy, J.; Funke, J.; Colborn, District Judge; Samson, District Judge
JURISDICTION	Nebraska
DECIDED	March 23, 2018
DOCKET	No. S-17-1155
DISPOSITION	affirmed
PROCEDURAL POSTURE	Steven S. appealed a separate juvenile court order transferring his escape case from juvenile court to Lancaster County Court.
STANDARD OF REVIEW	De novo on the record for an abuse of discretion. When the evidence is conflicting, the appellate court may give weight to the fact that the juvenile court observed the witnesses and accepted one version of the facts over another.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Steven S. v. State of Nebraska

TOPICS

- appellate procedure
- standard of review
- interlocutory appeal
- criminal procedure
- appellate jurisdiction

PRACTICE AREAS

- juvenile law
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. What standard of review governs an order transferring a juvenile offender's case from juvenile court to county or district court?
2. Whether the juvenile court abused its discretion by transferring Steven S.'s felony escape case to county court.
3. Whether the State proved by a preponderance of the evidence that the proceeding should be transferred under Neb. Rev. Stat. § 43-274(5).

HOLDINGS

1. An appellate court reviews a juvenile court's decision to transfer a juvenile offender's case to county court or district court de novo on the record for an abuse of discretion.
2. When the prosecution seeks to transfer a juvenile offender's case to criminal court, the juvenile court must retain the matter unless a preponderance of the evidence shows that the proceeding should be transferred to county or district court; the prosecution bears that burden.
3. A juvenile court deciding whether to transfer a case to county or district court must consider the factors in Neb. Rev. Stat. § 43-276. The court need not resolve every factor against the juvenile, no factor has a predetermined weight, and the court must balance public protection and societal security against the practical and nonproblematical rehabilitation of the juvenile.
4. The juvenile court did not abuse its discretion in transferring Steven S.'s escape case to county court.

KEY QUOTATIONS

“We therefore hold that an appellate court reviews a juvenile court’s decision to transfer a juvenile offender’s case to county court or district court de novo on the record for an abuse of discretion.” (457)

“Rather, it is a balancing test by which public protection and societal security are weighed against the practical and nonproblematical rehabilitation of the juvenile.” (458)

“Upon our de novo review of the record, we conclude that the juvenile court did not abuse its discretion in ordering that Steven’s case be transferred to county court.” (460)

FACTUAL BACKGROUND

While being transported from juvenile detention to the Youth Rehabilitation and Treatment Center, Steven S. freed his hand from a wrist restraint and opened a passenger door, allowing himself and another juvenile to escape. The State charged him with felony escape and sought transfer of the case to county court. The transfer evidence showed a lengthy history of juvenile-court involvement, repeated escapes or absconding from placements, unsuccessful services, and conflicting expert and probation testimony concerning his amenability to treatment.

PROCEDURAL HISTORY

The State filed a juvenile petition charging Steven S. with felony escape and simultaneously moved to transfer the case to county court. After an evidentiary transfer hearing, the separate juvenile court granted the motion.

Steven timely appealed, and the Nebraska Supreme Court moved the case to its docket and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Interest of Tyrone K., 295 Neb. 193, 887 N.W.2d 489 (2016)
- In re Interest of Tavian B., 292 Neb. 804, 874 N.W.2d 456 (2016)
- State v. Bluett, 295 Neb. 369, 889 N.W.2d 83 (2016)
- In re Interest of Becka P. et al., 296 Neb. 365, 894 N.W.2d 247 (2017)
- Laurie v. State, 108 Neb. 239, 188 N.W. 110 (1922)
- In re Interest of Laurance S., 274 Neb. 620, 742 N.W.2d 484 (2007)
- In re Interest of Shaquille H., 285 Neb. 512, 827 N.W.2d 501 (2013)
- In re Interest of Dalton S., 273 Neb. 504, 730 N.W.2d 816 (2007)
- In re Interest of J.K., 265 Neb. 253, 656 N.W.2d 253 (2003)
- In re Interest of Antone C. et al., 12 Neb. Ct. App. 466, 677 N.W.2d 190 (2004)
- In re Interest of LeVanta S., 295 Neb. 151, 887 N.W.2d 502 (2016)
- State v. Stevens, 290 Neb. 460, 860 N.W.2d 717 (2015)