

## **SUMMARY STATEMENT**

*Idaho Department of Health & Welfare v. Jane Doe (2023-13)*

Docket No. 50678

In this case arising out of Ada County, the Court of Appeals dismissed the appeal from a finding of aggravated circumstances in a Child Protection Act (CPA) case. The magistrate court found aggravated circumstances based on the prior involuntary termination of Doe's parental rights to three of her other children and rejected Doe's argument that I.C. § 16-1602(6)(c)--the statute defining aggravated circumstances as including a prior involuntary termination of parental rights--is unconstitutional. The magistrate court, citing I.A.R. 12.1, granted Doe's oral motion for permission to appeal directly to the Idaho Supreme Court the magistrate court's decision to reject Doe's constitutional challenge to I.C. § 16-1602(6)(c) and grant the motion finding aggravated circumstances.

On appeal, Doe pursued her argument that I.C. § 16-1602(6)(c) is unconstitutional. The Court of Appeals noted that, in order to bypass an appeal to the district court and pursue a permissive appeal to the Idaho Supreme Court, the aggrieved party must comply with I.A.R. 12.1, which authorizes an immediate permissive appeal to the Idaho Supreme Court from either (1) a final judgment as defined in Idaho Rule of Family Law Procedure 802 or an order entered after final judgment involving the custody of a minor, or (2) a final judgment or an order entered after final judgment in a CPA proceeding. The Court of Appeals held that an order finding aggravated circumstances, even if titled a "judgment," is not a final judgment--it is an interlocutory order. Nor is the finding of aggravated circumstances an order entered after a final judgment in a CPA proceeding for purposes of appeal. Accordingly, the Court of Appeals dismissed the appeal for lack of jurisdiction.

*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.*