

BOISE, TUESDAY JUNE 4, 2024 AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51601

**In the Matter of Jane Doe I, John Doe I,)
and Jane Doe II, Children Under)
Eighteen (18) Years of Age.)
STATE OF IDAHO, DEPARTMENT OF)
HEALTH & WELFARE,)
Petitioner-Respondent,)
v.)
JOHN DOE (2024-09),)
Respondent-Appellant.)**

Appeal from the Magistrate Division of the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Thomas D. Kershaw, Jr., Magistrate.

Benjamin P. Andersen, Chief Twin Falls County Public Defender; Adam J. Ondo, Deputy Public Defender, Twin Falls, for appellant.

Hon. Raúl R. Labrador, Attorney General; Briana R. Allen, Deputy Attorney General, Boise, for respondents.

John Doe (2024-09) is the father of the three minor children in this action. The Idaho Department of Health and Welfare filed a petition to place a fourth child in the Department's custody on November 19, 2021, and that child was placed in foster care on November 22, 2021. The three younger children involved in this action were left in the home at that time. In January 2022, the magistrate court approved a case plan following a hearing at which both parents were present. In May 2022, the magistrate court ordered the three younger children removed from the home and placed them in the custody of the Department. The Department filed a petition to terminate parental rights, and a termination trial was held in December 2023. The magistrate court terminated Doe's parental rights after finding that clear and convincing evidence showed Doe neglected the children and that termination is in the children's best interests. Doe appeals, challenging whether: (1) there was sufficient notice of case plan tasks; (2) actual neglect was sufficiently plead; (3) one of the case plan tasks was too vague to serve as a basis for termination;

- (4) sufficient evidence supports the magistrate court's finding that he neglected the children; and
- (5) I.C. § 16-2002(3)(b) is unconstitutional "as-applied" to the facts of this case.