

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 53085

<b>In the Interest of: John Doe I, A Child</b>	)	
<b>Under Eighteen (18) Years of Age.</b>	)	
<b>STATE OF IDAHO, DEPARTMENT OF</b>	)	<b>Filed: March 12, 2026</b>
<b>HEALTH &amp; WELFARE,</b>	)	
	)	<b>Melanie Gagnepain, Clerk</b>
<b>Petitioner-Respondent,</b>	)	
	)	<b>THIS IS AN UNPUBLISHED</b>
<b>v.</b>	)	<b>OPINION AND SHALL NOT</b>
	)	<b>BE CITED AS AUTHORITY</b>
<b>JOHN DOE (2025-30),</b>	)	
	)	
<b>Respondent-Appellant.</b>	)	
_____	)	

Appeal from the Magistrate Division of the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Jennifer Bergin, Magistrate.

Judgment terminating parental rights, affirmed.

Erik Fredrickson, State Public Defender; Adam J. Ondo, Deputy State Public Defender, Twin Falls, for appellant.

Hon. Raúl R. Labrador, Attorney General; John Spalding, Deputy Attorney General, Boise, for respondent.

TRIBE, Chief Judge

John Doe (2025-30) appeals from the judgment terminating his parental rights. We affirm.

**I.**

**FACTUAL AND PROCEDURAL BACKGROUND**

Doe is the father of John Doe I (Child) born in 2014. Child’s biological mother passed away in 2021, and no other family support exists for Child. In June 2023, Doe was involved in a domestic violence incident (with Child present) that resulted in Doe being taken into custody by law enforcement. Child was subsequently declared in imminent danger and placed into foster care.

Following Child’s removal, the Idaho Department of Health and Welfare created a case plan for Doe. The first goal of the case plan was reunification subject to case plan completion. During an extended home visit with Child, Doe relapsed on drugs, missed drug testing, had further

interactions with law enforcement, and failed to meet the needs of Child. As a result, the magistrate court determined Doe did not complete his case plan. The extended home visit ended when Doe attempted suicide. The Department filed a petition to terminate Doe's parental rights and a trial on the petition was held. On the morning of trial, Doe (through counsel) requested a continuance, which the magistrate court denied. Doe did not attend the termination trial. After finding by clear and convincing evidence that Doe neglected Child and that termination is in Child's best interests, the magistrate court entered a judgment terminating Doe's parental rights. Doe appeals.

## II.

### STANDARD OF REVIEW

On appeal from a decision terminating parental rights, this Court examines whether the decision is supported by substantial and competent evidence, which means such evidence as a reasonable mind might accept as adequate to support a conclusion. *Doe v. Doe*, 148 Idaho 243, 245-46, 220 P.3d 1062, 1064-65 (2009). The appellate court will indulge all reasonable inferences in support of the trial court's judgment when reviewing an order that parental rights be terminated. *Id.* The Idaho Supreme Court has also said that the substantial evidence test requires a greater quantum of evidence in cases where the trial court's finding must be supported by clear and convincing evidence than in cases where a mere preponderance is required. *State v. Doe*, 143 Idaho 343, 346, 144 P.3d 597, 600 (2006). Clear and convincing evidence is generally understood to be evidence indicating that the thing to be proved is highly probable or reasonably certain. *Roe v. Doe*, 143 Idaho 188, 191, 141 P.3d 1057, 1060 (2006). Further, the trial court's decision must be supported by objectively supportable grounds. *Doe*, 143 Idaho at 346, 144 P.3d at 600.

## III.

### ANALYSIS

Doe argues that the magistrate court abused its discretion when it failed to grant a continuance of the termination trial. Doe also challenges the sufficiency of the evidence supporting the magistrate court's findings that Doe neglected Child and that termination of Doe's parental rights is in Child's best interests. The Department responds that substantial and competent evidence supports the magistrate court's termination decision. We hold that Doe has failed to show the magistrate court erred in terminating his parental rights.

### **A. Motion to Continue Termination Trial**

Doe contends the magistrate court erred by denying his request for a continuance of the termination trial. Doe argues that the magistrate court's explanation was brief and contends that the magistrate court "abused its discretion under the final prong of the abuse of discretion standard." Nearly sixteen months after Child entered foster care, the Department filed a petition for termination. During a review hearing, the magistrate court requested the parties submit their unavailable dates so the termination trial could be set. Doe was present at that hearing. Based on the unavailable dates submitted by the parties to the court, the termination trial dates were set. The termination trial began as scheduled, and Doe was not present. Doe's counsel explained that Doe had emailed counsel and was requesting a continuance. Specifically, Doe's counsel stated Doe reported that "he did not think he would be able to make it" as he "got kicked out of his residence" and "also his car doesn't work." The magistrate court denied the request for a continuance. Evidence closed after a single day of trial.

When a trial court's discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the boundaries of such discretion; (3) acted consistently with any legal standards applicable to the specific choices before it; and (4) reached its decision by an exercise of reason. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018). Doe argues that the magistrate court abused its discretion when it failed to grant a continuance of the termination trial. Whether to grant a motion for continuance is within the trial court's sound discretion. *State, Dep't of Health & Welfare v. Doe (2019-39)*, 166 Idaho 546, 557, 462 P.3d 74, 85 (2020). The reviewing court should assess "the reasons presented to the trial judge at the time the request [for a continuance] is denied." *Id.*

Doe argues that, while the magistrate court's decision is discretionary, it did not reach its decision to deny a continuance of the termination trial by an exercise of reason. Specifically, Doe contends that the magistrate court's reasoning was not based on logic because judges often grant continuances in emergency circumstances, even when a trial has been scheduled months in advance. Doe argues he was unable to attend the trial because his vehicle did not work and he was kicked out of his residence. Furthermore, Doe argues that the denial of his request for the continuance would guarantee that he "would not be able to testify on his own behalf in the most

important hearing implicating his parental rights.” In response, the Department argues there is no record of Doe attempting to find other means to appear. The Department also argues that Doe’s claim regarding prejudice concerning his right to testify is unpersuasive. Finally, the Department argues that Doe’s issues were “not emergent” but, rather, “his housing instability and transportation instability were consistent factors across the [case for] at least a year of the child protection case.”

We are unpersuaded by Doe’s argument. Doe provided no explanation as to why his lack of housing contributed to his inability to attend the termination trial. On appeal, Doe similarly fails to explain why his ejection from his housing affected his ability to attend the termination trial. As to Doe’s reason regarding the lack of transportation, the magistrate court did not err in declining to grant the continuance. Doe was present when the magistrate court requested the parties submit their unavailable dates and was aware that transportation challenges had been a problem throughout the child protection case. Despite that knowledge, Doe proffered no information as part of his request for the continuance about why he had been unable to obtain transportation. Doe has failed to meet his burden of showing that the magistrate court abused its discretion in failing to grant a continuance of the termination trial.

#### **B. Statutory Basis for Termination**

A parent has a fundamental liberty interest in maintaining a relationship with his or her child. *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Doe v. State*, 137 Idaho 758, 760, 53 P.3d 341, 343 (2002). This interest is protected by the Fourteenth Amendment to the United States Constitution. *State v. Doe*, 144 Idaho 839, 842, 172 P.3d 1114, 1117 (2007). Implicit in the Termination of Parent and Child Relationship Act is the philosophy that, wherever possible, family life should be strengthened and preserved. I.C. § 16-2001(2). Therefore, the requisites of due process must be met when terminating the parent-child relationship. *State v. Doe*, 143 Idaho 383, 386, 146 P.3d 649, 652 (2006). Due process requires that the grounds for terminating a parent-child relationship be proved by clear and convincing evidence. *Id.* Because a fundamental liberty interest is at stake, the United States Supreme Court has determined that a court may terminate a parent-child relationship only if that decision is supported by clear and convincing evidence. *Santosky v. Kramer*, 455 U.S. 745, 769 (1982); *see also* I.C. § 16-2009; *Doe v. Dep’t of*

*Health & Welfare*, 146 Idaho 759, 761-62, 203 P.3d 689, 691-92 (2009); *Doe*, 143 Idaho at 386, 146 P.3d at 652.

Idaho Code Section 16-2005 permits a party to petition the court for termination of the parent-child relationship when it is in the child's best interests and any one of the following five factors exist: (a) abandonment; (b) neglect or abuse; (c) lack of a biological relationship between the child and a presumptive parent; (d) the parent is unable to discharge parental responsibilities for a prolonged period that will be injurious to the health, morals, or well-being of the child; or (e) the parent is incarcerated and will remain incarcerated for a substantial period of time. Each statutory ground is an independent basis for termination. *Doe*, 144 Idaho at 842, 172 P.3d at 1117.

Idaho Code Section 16-2002(3)(a) defines "neglect" as any conduct included in I.C. § 16-1602(31). Section 16-1602(31)(a) provides, in pertinent part, that a child is neglected when the child is without proper parental care and control, or subsistence, medical or other care or control necessary for his or her well-being because of the conduct or omission of his or her parents, guardian, or other custodian or their neglect or refusal to provide them. Neglect also exists where the parent has failed to comply with the court's orders or the case plan in a Child Protective Act case and the Department has had temporary or legal custody of the child for fifteen<sup>1</sup> of the most recent twenty-two months and reunification has not been accomplished by the last day of the fifteenth month in which the child has been in the temporary or legal custody of the Department. I.C. § 16-2002(3)(b).

The magistrate court found by clear and convincing evidence that there were two bases for termination based upon neglect. The first basis was as follows:

The State alleges that conditions exist to terminate parental rights per Idaho Code § 16-2005(1)(b). The State has proven these allegations by clear and convincing evidence. [Doe] meets the definition of "neglect" as defined in Idaho Code § 16-2002(3)(a) and 16-1602(31)(a) by failing to provide proper parental care and control, or subsistence necessary for the child's well-being because of [Doe's] conduct and/or his omission.

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<sup>1</sup> At the time the Department filed the petition to terminate parental rights, the statutory timeframe under I.C. § 16-2002(3)(b) was fifteen out of the most recent twenty-two months. Subsequently, the statute was amended to twelve out of the most recent twenty-two months.

The second basis for termination, which is authorized under I.C. § 16-2002(3)(b), was based upon Doe's failure to complete a case plan, his failure to reunify with Child, and that Child had been in the Department's custody for over fifteen consecutive months.

On appeal, Doe challenges the magistrate court's findings as to his income. Specifically, Doe argues that the finding that he failed to complete the case plan is erroneous. However, Doe fails to challenge the magistrate court's findings that Doe neglected Child pursuant to I.C. § 16-2002(3)(a) or I.C. § 16-1602(31)(a). Failure to challenge the alternate basis results in this Court affirming the magistrate court's finding of neglect as a statutory basis upon which to terminate Doe's parental rights. *See Idaho Dep't of Health & Welfare v. Doe (2017-36)*, 163 Idaho 274, 278, 411 P.3d 1175, 1179 (2018). Because Doe failed to challenge the finding of neglect pursuant to I.C. § 16-2002(3)(a) or I.C. § 16-1602(31)(a), we next address the only remaining issue on appeal regarding whether termination is in the best interests of Child. *See Idaho Dep't of Health & Welfare v. Doe (2016-09)*, 163 Idaho 707, 711, 418 P.3d 1216, 1220 (2016).

### **C. Best Interests of Child**

Once a statutory ground for termination has been established, the trial court must next determine whether it is in the best interests of the child to terminate the parent-child relationship. *Tanner v. State, Dep't of Health & Welfare*, 120 Idaho 606, 611, 818 P.2d 310, 315 (1991). When determining whether termination is in the child's best interests, the trial court may consider the parent's history with substance abuse, the stability and permanency of the home, the unemployment of the parent, the financial contribution of the parent to the child's care after the child is placed in protective custody, the improvement of the child while in foster care, the parent's efforts to improve his or her situation, and the parent's continuing problems with the law. *Doe (2015-03) v. Doe*, 159 Idaho 192, 198, 358 P.3d 77, 83 (2015); *Idaho Dep't of Health & Welfare v. Doe*, 156 Idaho 103, 111, 320 P.3d 1262, 1270 (2014). A finding that it is in the best interests of the child to terminate parental rights must still be made upon objective grounds. *Idaho Dep't of Health & Welfare v. Doe*, 152 Idaho 953, 956-57, 277 P.3d 400, 403-04 (Ct. App. 2012).

The magistrate court found that termination of Doe's parental rights is in Child's best interests. According to the magistrate court, without the intervention and care of the Department, Child would be living in an environment "where he is homeless and [Doe] is financially unable to care" for Child. The magistrate court also found that Doe regularly tried to surrender Child to the

Department. Additionally, Doe refused to comply with the requirements of the case plan and violated direct court orders such as drug testing. Doe has also chosen to live with his partner in a “clear domestic violence situation where [Child] is afraid.” Finally, the magistrate court found that Doe has not addressed “his substance abuse issues or other financial and housing situations that create an unsafe and unstable environment” for Child.

On appeal, Doe challenges the magistrate court’s basis for finding that termination of his parental rights is in Child’s best interests. Specifically, Doe argues that the magistrate court’s finding is not supported by clear and convincing evidence because the magistrate court “failed to give [Doe] credit for being employed on multiple occasions.” Doe further argues that the magistrate court “turned a blind eye to [Doe’s] attempts to ameliorate his circumstances, such as by starting his own transportation business.” Finally, Doe asserts that he provided for Child when he was home on the extended home visit. However, a review of the record shows the magistrate court considered this evidence and, nevertheless, determined that termination of Doe’s parental rights is in Child’s best interests. Doe’s argument on appeal seeks to have this Court reweigh the evidence presented at trial. This Court’s review, however, is limited to whether substantial and competent evidence supports the magistrate court’s decision. *See, e.g., Doe*, 148 Idaho at 245-46, 220 P.3d at 1064-65 (noting review is whether substantial and competent evidence supports decision). This Court will not reweigh the evidence. *Idaho Dep’t of Health & Welfare v. Doe* (2017-5), 162 Idaho 400, 407, 397 P.3d 1159, 1166 (Ct. App. 2017). The magistrate court’s findings are supported by substantial and competent evidence and also support its conclusion that it is in the best interests of Child for Doe’s parental rights to be terminated. Doe has failed to show that the magistrate court erred in finding that termination of Doe’s parental rights is in Child’s best interests.

#### **IV. CONCLUSION**

Doe has failed to show the magistrate court abused its discretion by denying his request for continuance of the termination trial. Substantial and competent evidence supports the magistrate court’s determination that Doe neglected Child and that termination of Doe’s parental rights is in the best interests of Child. Thus, Doe has failed to show error in the magistrate court’s

decision to terminate his parental rights. Accordingly, the judgment terminating Doe's parental rights is affirmed.

Judge GRATTON and Judge HUSKEY, **CONCUR.**