

KANSAS SUPREME COURT CASES

***In re Adoption of T.M.M.H.*, 307 Kan. 902, 416 P.3d 999 (2018).**

Grandmother appealed the district court's ruling that she was not an interested party and therefore did not have standing to participate in a stepparent adoption. A plurality of the Kansas Supreme Court held that Grandmother needed to establish both statutory and constitutional standing. The plurality held Grandmother did not establish statutory standing as an interested party under KARA and the Probate code based on procedural grounds. An interested party is "the parent in a proceeding pursuant to" KARA, the petitioner in the case on appeal, or "any other person granted interested party status by the court from which the appeal is being taken." K.S.A. 2016 Supp. 59-2401. Grandmother was not a parent in a KARA proceeding, the petitioner on appeal, nor found as an "interested party" by the district court. The Court did not reach the issue of whether Grandmother was a "parent" based on the agreements and orders in the case. Justice Stegall concurred in the result, and Justice Rosen dissented.

***In re Marriage of Williams*, 307 Kan. 960, 417 P.3d 1033 (2018).**

The Kansas Supreme Court held that the Uniformed Services Former Spouses' Protection Act (USFSPA) provision prohibiting courts from entering an order about assets of a service member without jurisdiction limits state courts' personal jurisdiction, but does not limit subject matter jurisdiction. While the USFSPA does not limit subject matter jurisdiction, it does provide conditions state courts must meet to avoid federal preemption issues with respect to military retirement benefits. Those conditions affect personal jurisdiction. The Court found that the appellant's mere failure to object to the district court's subject matter jurisdiction over his retirement benefits during divorce proceedings amounted to implied consent to jurisdiction under the USFSPA. The Court found the district court had authority to award attorney fees for the garnishment under K.S.A. 2017 Supp. 23-2715.

***In the Interest of T.S.*, 308 Kan. 306, 419 P.3d 1159 (2018).**

Grandfather moved to terminate the parental rights of his grandson's parents, and the district court denied the motion but appointed the grandfather as permanent custodian of the grandson. Father appealed the finding of unfitness, and grandfather cross-appealed the decision not to terminate Father's parental rights. The Court of Appeals dismissed Grandfather's appeal for lack of jurisdiction K.S.A. 2016 Supp. 38-2273(a), and Grandfather petitioned for review by the Kansas Supreme Court. Father did not cross-petition. At the Kansas Supreme Court, Grandfather argued the statutory language allowing appeal from "any order of...termination of parental rights" should include any order regarding termination of parental rights. The Kansas Supreme Court disagreed, finding it did not have jurisdiction to hear Grandfather's appeal. Justice Johnson dissented, saying he would interpret the statute broadly to include any order regarding affecting the temporary custody or disposition of a child.

***In re Adoption of C.L.*, 308 Kan. 1268, 427 P.3d 951 (2018).**

After a biological mother placed her baby for adoption, the adoptive parents sought to terminate the biological father's parental rights. The biological mother did not know she was pregnant until the morning C.L. was born. She did not tell the biological father about the birth. After the father learned about the birth, he filed a petition to establish paternity, made preparations to care for the baby himself, including preparing a nursery in the family home and making health insurance adjustments anticipating the baby's arrival. The biological father did not communicate with the adoptive parents at all, including asking about how C.L. was doing, and offered no financial or other support during the pendency of the proceedings. The district court terminated his rights, finding that biological father (1) abandoned or neglected C.L. after having knowledge of the birth and (2) did not make reasonable efforts to communicate with C.L. after birth. The Court of Appeals found the record did not support termination on grounds of abandonment or neglect, but affirmed termination on the grounds of failing to making reasonable efforts to communicate. The Kansas Supreme Court reversed, finding that the district court's finding about biological father's lack of communication was not supported by clear and convincing evidence.

PUBLISHED KANSAS COURT OF APPEALS CASES

***In the Matter of the Marriage of Towle and LeGare*, __ Kan.App. __, __ P.3rd __, 2019 WL 1213184 (2019).**

Husband petitioned for legal separation from Wife. Wife was later diagnosed with terminal cancer during the pendency of the proceedings. The parties reached a property settlement, which the district court put on the record and approved. The district court asked Wife's counsel to prepare the journal entry. Months later, Wife died without her counsel filing the journal entry. Husband then sought dismissal, arguing Wife's death abated the action and vacated jurisdiction. The district court denied dismissal and substituted Wife's Son (who was not Husband's son), who was not the executor of Wife's estate. The district court ordered Wife's Son to file a journal entry within 72 hours. Several months passed without Wife's Son filing the journal entry. Rather than file the journal entry, Wife's Son sought to enforce the property settlement agreement, alleging Husband breached it. The district court granted the motion, and Husband appealed. On appeal, Husband argued the district court erred by not dismissing the case as the action abated at the time of Wife's death. The Kansas Court of Appeals found, as a matter of first impression, that the action was a personal one which abated upon Wife's death. Accordingly, because the journal entry had not been approved and filed, the district court erred in not dismissing the case.

***Matter of Marriage of Gerleman*, 56 Kan.App.2d 357, 430 P.3d 467 (2018).**

Ex-wife sought garnishment of ex-husband's wages after securing judgment against him for unpaid spousal maintenance and her share of military retirement pay. Ex-husband sought exemption from garnishment under K.S.A. 2017 Supp. 60-2310(c)

which allows exemption when illness of “any member of the family of the debtor” prevents the debtor from working at his regular trade. The district court denied the exemption, and ex-husband appealed. The Court of Appeals reversed and remanded, finding as a matter of first impression that ex-husband’s father was a family member within the meaning of the statute despite not sharing a residence with ex-husband.

***Paternity of M.V. By and Through Her Natural Mother v. T.R.*, 56 Kan.App.2d 28 422 P.3d 1178 (2018).**

In a paternity action, Grandmother filed a motion seeking grandparent visitation with child. Mother sought modification of visitation, but the district court denied it. Mother appealed arguing that the district court violated her due process rights by adopting Grandmother’s visitation plan without first finding Mother’s visitation plan was unreasonable. Mother also argued K.S.A. 2017 Supp. 23-3304 required the district court to assess her attorney fees against Grandmother. The Court of Appeals found that the district court erred by not making the required findings, because K.S.A. 2017 Supp. 23-3301(b) allows the district court to grant grandparent visitation rights upon “finding that the visitation rights would be in the child’s best interests and when a substantial relationship between the child and the grandparent has been established.” The Court of Appeals, reversed and remanded with instructions to make appropriate findings to justify the grandparent visitation order, not to reject Mother’s proposed visitation order without a finding that it is unreasonable. Because K.S.A. 2017 Supp. 23-3304 requires “[c]osts and reasonable attorney fees shall be awarded to the respondent ... unless the court determines that justice and equity otherwise require” in a grandparent visitation action, it also required the district court to grant Mother’s request for attorney fees unless it expressly finds that justice and equity require otherwise.

***In the Matter of the Marriage of Dean*, ___ Kan.App. ___, 423 P.3d 567, 2018 WL 3946236 (2018).**

While married, Husband and Wife acquired over 50 rental properties and amassed a joint estate with a net value of more than \$1,000,000. Both were self-employed; Wife worked as a real estate agent and Husband worked as the sole owner of three real estate management companies and owned the majority interest in a roofing company. During divorce proceedings, Wife petitioned for child support from Husband. Multiple experts testified at a 10 day trial regarding how to calculate Husband’s income. The expert the district court found most reliable explained Husband’s income should be calculated using either a cash flow method or a net income method. The net income method deducts depreciation and interest payments but does not deduct amounts paid to reduce the principal owed on mortgages. Under that method, Husband’s income was \$336,672. In contrast, the cash flow method does not deduct depreciation but does deduct payments of principal on the mortgages. Under that method, Husband’s income was \$233,863 (and after removing earnings from Wife’s real estate sales, was \$152,024). The district court awarded child support and used the cash flow method, which excluded non-liquid capital gains from real estate investments, to calculate

Husband's income. The district court defined non-liquid capital gains as "the principal reductions that occur by virtue of monthly, quarterly, or otherwise regular payments of the mortgages ... [that] increase[] a party's net worth." Wife appealed, challenging the method used by the district court to calculate Husband's income. The Court of Appeals agreed that the district court erroneously excluded the non-liquid capital gains, vacated the district court decision and remanded for calculation of each parent's domestic gross income and child support income in accordance with the Child Support Guidelines.

***In the Interests of P.J., B.D., and P.D.*, 56 Kan.App.2d 461, 430 P.3d 988 (2018).**

Mother's three minor children were each adjudicated as children in need of care. At a temporary custody hearing, the district court placed the children in the custody of their respective fathers. At the dispositional hearing, the district court found it was in the best interests of the children to remain in the custody of their fathers. The district court did not grant Mother a reintegration plan but did order a review hearing to consider child custody orders. Mother appealed. Finding the question of which standard of review applies to the dispositional hearing, the Court of Appeals applied the abuse of discretion standard. The Court of Appeals found the district court did not abuse its discretion by placing the children with their fathers because substantial competent evidence supported the placement. Reviewing the denial of Mother's reintegration plan de novo, the Court of Appeals found no error because the children attained permanency with their fathers, meaning the district court needed to make a parenting plan, not a reintegration plan. The Court of Appeals affirmed.

***In the Matter of the Marriage of Babin*, ___ Kan.App. ___, ___ P.3d ___, 2019 WL 406515 (2019).**

The district court enforced a post-divorce mediated property settlement which included terms dividing the ex-husband's military disability benefits. The Kansas Court of Appeals held while federal law prevents courts from including military disability benefits in marital property division, nothing in federal law prevents courts from considering military disability benefits when dividing other assets. The Court of Appeals reversed the district court and remanded with directions.

***Interests of K.L.B.*, 56 Kan.App.2d 429 431 P.3d 883 (2018).**

After being in Kansas for a week, two children were taken into state custody, and the mother was later extradited to Kentucky to face criminal charges. The district court exercised jurisdiction after Kentucky declined to do so. The mother's parental rights were eventually terminated, and she appealed. The Kansas Court of Appeals held that the district court had temporary emergency jurisdiction under the UCCJEA which later ripened to home state jurisdiction, and that substantial competent evidence supported the district court's findings that the mother was unfit and would remain unfit for the foreseeable future.

UNPUBLISHED COURT OF APPEALS CASES

***In the Interests of S.R. and T.R.*, 435 P.3d 600, 2019 WL 986892 (Kan. App. 2019) (unpublished opinion).**

Father appealed the district court's termination of his parental rights, challenging the statutory findings of unfitness arguing that he did not have an opportunity to participate in reintegration tasks, reasonable efforts were not made to rehabilitate the family, and the district court abused its discretion terminating his parental rights. The Kansas Court of Appeals affirmed the district court because on appeal the father only challenged two of the seven statutory grounds the district court relied on to make its finding of unfitness, and because the challenged findings were adequately supported by evidence.

***In Interests of S.I., JR. I.I., and D.I.*, 419 P.3d 660, 2018 WL 2451937 (Kan. App. 2018) (unpublished opinion).**

Father and Mother appealed the district court's termination of their parental rights, arguing the ruling lacked sufficient evidence supporting the findings they were unfit, their condition was unlikely to change in the foreseeable future, and termination was in the best interests of the children. The Court of Appeals affirmed the district court's termination of parental rights, finding the record amply supported the district court's findings.

***Matter of Marriage of White*, 420 P.3d 50, 2018 WL 3077086 (Kan. App. 2018) (unpublished opinion).**

After divorcing, ex-husband and ex-wife had a dispute about dividing expenses incurred getting medical treatment for their children. The parents shared equal responsibility for medical expenses, covering 50% each. After a hearing, the district court determined a \$1,117 balance in favor of ex-husband. Ex-husband asked the court to reconsider, arguing the court improperly let ex-wife seek reimbursement for bills she incurred but had not yet paid based on a prior court order requiring the parties to submit "all medical bills they have paid" within a certain timeframe. The district court denied the motion for rehearing and modified its order, explaining each party was responsible for 50% of the incurred, not paid, medical bills for the children. Ex-husband appealed. The Court of Appeals affirmed the district court, finding no abuse its discretion by ordering reimbursements based on amounts incurred rather than amounts paid because neither the Kansas Child Support Guidelines nor case law suggest only expenses paid can be considered.

***In Interests of N.M., N.T., and D.K.*, 420 P.3d 498, 2018 WL 2749803 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the adjudication of her three minor children as children in need of care. Mother argued the district court erred by improperly admitting drug tests into evidence at the adjudication and that the district court lacked sufficient evidence to find

all three children as children in need of care. The Court of Appeals found the district court lacked sufficient evidence to find the older children as in need of care because the only stated basis for the finding was that they resided with a sibling found to be in need of care because he lacked “care and control necessary for the child’s physical, mental, or emotional health.” That statutory factor can only be invoked when the sibling is a member of the household having been “physically, mentally or emotionally abused or neglected or sexually abused.” Because the youngest child was in need of care for a different reason, the district court lacked sufficient basis to determine the siblings as in need of care. The Court of Appeals set aside that adjudication.

***Matter of Adoption of C.D.F.*, 420 P.3d 508, 2018 WL 3077557 (Kan. App. 2018) (unpublished opinion).**

Stepfather sought to adopt C.D.F. without the consent of C.D.F.’s natural father, and the district court dismissed the petition. Stepfather appealed the dismissal, arguing the district court should not have dismissed the petition without an evidentiary hearing. He also argued the district court erred by finding the Kansas Adoption and Relinquishment Act (KARA), K.S.A. 59-2111 et seq. required Natural Father’s consent to the adoption. Natural Father appealed the district court’s denial of attorney fees and sanctions against Stepfather. The Court of Appeals affirmed the district court’s rulings on each issue.

***In the Interests of J.P.P., J.J.P., and J.P.*, 429 P.3d 908, 2018 WL 5852498 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the district court’s termination of her parental rights, arguing (1) it lacked clear and convincing evidence supporting the finding that she was unfit; (2) it erred in finding that termination of her rights was in the children's best interest; and (3) it erred in finding that public agencies made reasonable efforts to rehabilitate the family. The Court of Appeals found no error and affirmed the district court.

***In Interests of D.C.-R.*, 416 P.3d 166, 2018 WL 1659794 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the district court’s termination of parental rights, arguing the evidence did not support the district court’s ruling. The Court of Appeals affirmed the district court, finding adequate evidence supported the termination findings when Mother continued associating with two men who abused both her and her children.

***Kline v. Holmes*, 414 P.3d 1242, 2018 WL 1659927 (Kan. App. 2018) (unpublished opinion).**

Holmes met Kline days before an insemination that resulted in pregnancy. After learning she was pregnant, Holmes moved to Kansas and ended her relationship with Kline, only informing Kline of the pregnancy several weeks later. They subsequently had a long-distance relationship. They discussed raising the child together and drafted a co-

parenting agreement, but neither party signed it. Four months after the child's birth, Kline moved to Kansas. Kline often left the state, traveling for long periods of time. Holmes and Kline ended their relationship when the child was one year old. Four months later, Kline filed a petition for determination of parentage. After a trial, the district court found Kline was a mother to the child under the Kansas Parentage Act because she established a presumption of her parentage, but did not address the presumption as rebuttable. The Court of Appeals held the district court made multiple errors, including: failing to treat the presumption as rebuttable, failing to address whether the presumption was rebutted, if the other party overcame the rebuttal, and by concluding the notorious acknowledgment presumption was itself the test for parentage. The Court of Appeals reversed because Kline met a presumption of paternity, and therefore met the statutory definition of a parent. The Court of Appeals remanded the case with instructions.

***Matter of Guardianship of B.H., D.D., S.D., and V.D.*, 425 P.3d 1274, 2018 WL 4517544 (Kan. App. 2018) (unpublished opinion).**

The district court denied a motion to terminate a guardianship and conservatorship, ruling extraordinary circumstances required it to continue the guardianship and conservatorship. Parents and Children jointly appealed. Parents contended that the district court lacked sufficient evidence to support its judgement, that they are fit parents, that the district court failed to identify the extraordinary circumstances in the case, and that the district court failed to apply the parental preference doctrine. The district court found Parents owed significant child support, had limited financial resources, and had infrequent meaningful contact with the children. The district court did not find the parents were unfit as parents. While the district court found extraordinary circumstances required continuing the guardianship, it did not identify what those circumstances were, or make any reference to parental preference doctrine in its findings. The Court of Appeals reversed and remanded with instructions to terminate the guardianship and conservatorship in a reasonable and timely manner.

***Matter of Marriage of Owens*, 424 P.3d 570, 2018 WL 4167268 (Kan. App. 2018) (unpublished opinion).**

This is the second appeal from this divorce action. In *Owens I*, the district court granted a joint custody order, giving Mother residential custody and Father parenting time. Father disputed the agreement. The district court ordered the parties to enter into limited case management, appointing a limited case manager (LCM). The LCM recommended that residential custody with Father was in the best interests of the children. Mother objected, but the district court adopted the LCM's recommendations. Mother appealed, arguing the LCM was not qualified under K.S.A. 2014 Supp. 23-3508(d) to make recommendations to the trial court regarding the residency of children. The Court of Appeals reversed and remanded to the district court.

On remand, the district court appointed the same person to assist in the limited case management process, this time as a limited parenting coordinator (LPC) under

local rules. She again recommended that Father should be granted primary residential custody, holding Mother failed to prove the recommendations were erroneous or inappropriate, and finding a change in residence was not in the best interests of the children. The Court of Appeals found the district court erred by again repeated an unqualified LPC, vacated the order and remanded to a different judge with instructions to hold a new evidentiary hearing.

***Matter of Marriage of Fengying Hou and Mingfei Chu*, 417 P.3d 273, 2018 WL 2170812 (Kan. App. 2018) (unpublished opinion).**

The district court granted the parties a divorce and required Father to make payments for spousal maintenance, child support, and to share the expenses of the childrens' extracurricular activities equally with Mother. Father appealed, arguing the district court erred in requiring him to share expenses for extracurricular activities because the Kansas Child Support Guidelines include those expenses in the regular child support payments. The Court of Appeals affirmed because a district judge may deviate from the Guidelines by filing a written journal entry with findings the deviation is in the best interests of the child, and the district judge filed multiple such entries.

***In the Interests of C.M.G., K.M.G., and K.A.G.*, 417 P.3d 271, 2018 WL 2170082 (Kan. App. 2018) (unpublished opinion).**

Father appealed the termination of his parental rights by the district court. The Court of Appeals found clear and convincing evidence supported the district court's findings and affirmed.

***Matter of Biehl and Vandeloecht*, 417 P.3d 273, 2018 WL 2170487 (Kan. App. 2018) (unpublished opinion).**

In a paternity action, Mother appealed from a district court's award of attorney fees to two possible fathers. During the appeal, district court proceedings regarding matters of child custody, residential custody, parenting time, and child support continued. The Court of Appeals found the district court did not enter a final decision on the merits per K.S.A. 2017 Supp. 60-2102(a)(4) and dismissed the appeal for lack of appellate jurisdiction.

***In the Interest of R.C.*, 430 P.3d 489, 2018 WL 6005152 (Kan. App. 2018) (unpublished opinion).**

Father appealed the termination of his parental rights by the district court, arguing the district court's determination of unfitness lacked sufficient evidence and that the district court abused its discretion finding termination was in the best interests of the child. The Court of Appeals found clear and convincing evidence supported the district court's findings and affirmed.

***Interest of K.L.*, 435 P.3d 602, 2019 WL 1087233 (Kan. App. 2019) (unpublished opinion).**

Mother appealed the termination of her parental rights by the district court, arguing the district court's determination she was unfit and her condition was unlikely to change in the foreseeable future lacked sufficient evidence, and that the district court abused its discretion finding termination was in the best interests of the child. The Court of Appeals found adequate evidence supported each of the district court's findings and affirmed.

***In Interests of L.C.P.*, 425 P.3d 641, 2018 WL 4039170 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the termination of her parental rights by the district court, arguing the district court's determination she was unfit and her condition was unlikely to change in the foreseeable future lacked sufficient evidence. The Court of Appeals adequate evidence supported each of the district court's findings and affirmed.

***In the Interest of J.A.D.*, 416 P.3d 173, 2018 WL 1885253 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the termination of her parental rights by the district court, arguing the district court's determination she was unfit lacked sufficient evidence, and that termination of her rights was not in the best interests of the child. The Court of Appeals adequate evidence supported each of the district court's findings and affirmed.

***Matter of Marriage of Emerson*, 422 P.3d 686, 2018 WL 3485663 (Kan. App. 2018) (unpublished opinion).**

In a divorce proceeding, Appellant argued the district court erred by failing to consider the Appellee's pension in its spousal maintenance order, miscalculating an equalization payment by overvaluing an asset it assigned to Appellee, and awarding attorney fees without supporting evidence of the fees.

***Matter of Marriage of Meng*, 429 P.3d 625, 2018 WL 5728257 (Kan. App. 2018) (unpublished opinion).**

Ex-Husband appealed the length of his spousal maintenance payments to Ex-Wife. The divorce pre-trial order included monthly payments for 75 months, and the parties did not reserve the issue for trial. The trial judge ordered Ex-Husband make monthly maintenance payments for 24 months. Ex-Wife filed a motion to reconsider. At the hearing on the motion to reconsider, a different judge found the original judge abused her discretion and extended the maintenance to 70 months after considering the statutory factors, Shawnee County Family Law Guidelines, and the parties' pretrial statements. The Court of Appeals affirmed, finding the post trial judge did not abuse his discretion by modifying the length of payments.

***In the Interests of M.A.V. and T.D.V.*, 414 P.3d 1242, 2018 WL 1659921 (Kan. App. 2018) (unpublished opinion).**

Father appealed the termination of his parental rights, arguing the district court lacked substantial and compelling evidence to terminate his parental rights because he was unfit. The Court of Appeals found adequate evidence supported each of the district court's findings and affirmed.

***Matter of Marriage of Kalmer and Daniels*, 425 P.3d 643, 2018 WL 4373041 (Kan. App. 2018) (unpublished opinion).**

The parties originally brought a divorce action in the district court, but later agreed they were not party to a common law marriage and asked the district court to divide certain property and debt between the parties using its equitable discretion. The district court approved the settlement and neither party appealed. Many months later, Kalmer asked the court to find Daniels in contempt for allegedly failing to return certain items of property to him. He also filed an emergency motion to allow him to take possession of multiple items Daniels allegedly placed for sale online. The district court granted both motions and sanctioned Daniels for contempt. Daniels filed a motion to reconsider, which the district court denied. Daniels appealed both rulings. The Court of Appeals affirmed the district court, finding no abuse of discretion.

***Matter of Marriage of Traster*, 416 P.3d 177, 2018 WL 1973446 (Kan. App. 2018) (unpublished opinion).**

A postnuptial agreement between the parties required unequal division of assets favoring Ex-Wife. The district court held the agreement was void on public policy grounds, construed the agreement as a separation agreement and found the division of property it required unfair and inequitable. The district court divided the property between the parties as though no agreement existed. Earlier in this case, the Kansas Supreme Court held that the agreement between the parties was not void on public policy grounds, and it must be construed as a separations agreement controlled by K.S.A. 60-1610(b) (requiring the district court to incorporate the agreement into the divorce decree if it finds the agreement is valid, just, and equitable). The Kansas Supreme Court case remanded to the district court for further findings.

On remand, the district court determined the agreement was not just and equitable, but found its order dividing property and ordering spousal maintenance was fair, just, and equitable. Ex-Wife appealed, arguing the district court did not follow the Supreme Court mandate and seeking attorney fees under the agreement's terms. The Court of Appeals held the district court did comply with the Supreme Court order because factual inaccuracies the parties relied upon when entering the agreement provided a sufficient basis to find the agreement unjust and inequitable. The Court of Appeals also held the district court erred in failing to sever the agreement and grant attorney fees.

***Interests of L.K.*, 429 P.3d 250, 2018 WL 5091728 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the district court's termination of her parental rights, contending the evidence at trial was insufficient to support the district court's finding of unfitness. The district court made findings of unfitness using three statutory factors: that Mother physically, mentally, and emotionally neglected the children; Mother demonstrated a lack of effort to adjust her individual circumstances, conduct, or conditions to meet the needs of the children; and Mother failed to carry out a reasonable court approved case plan toward reintegrating the children back into the home. The district court further found that Mother's conduct was unlikely to change in the foreseeable future and that termination was in the best interest of the children. The Court of Appeals found adequate evidence supporting each of these findings in the record and affirmed the district court.

***In the Interests of N.A.K. and L.D.K.*, 420 P.3d 505, 2018 WL 3077085 (Kan. App. 2018) (unpublished opinion).**

Mother appealed the district court's termination of parental rights, arguing that the district court erred by denying an informal request for a continuance, that its finding of unfitness was not supported by clear and convincing evidence, and that the district court erred by finding the termination of her rights was in the best interests of the children. The Court of Appeals affirmed the district court.

***In the Interests of K.C.D. and M.D.D.*, 431 P.3d 325, 2018 WL 6253333 (Kan. App. 2018) (unpublished opinion).**

Father appealed the district court's termination of parental rights, challenging two of the court's five statutory determinations of unfitness. Father alleged the district court lacked sufficient evidence to show he was unfit due to (1) his use of alcohol or drugs rendering him unable to care for his children, and (2) his physical, mental, or emotional abuse or neglect of the children. The Kansas Court of Appeals rejected these arguments, finding the record supported both rulings. Evidence included Father's drug problem, his arrest for aggravated battery of Mother, and his little contact with children after they were removed from his custody. Father also argued the district court erred when it denied his request for a continuance so Mother could testify at the termination hearing. The Court of Appeals also rejected this argument, holding Father's due process rights were not violated.

***In the Interests of A.Z. and P.Z.*, 434 P.3d 867, 2019 WL 638271 (Kan. App. 2019) (unpublished opinion).**

Father and mother appealed the district court's order terminating their parental rights. The district court found the parents were unfit by reason of conduct or condition rendering them unable to care for their children, that this conduct was unlikely to change in the foreseeable future, and that termination was in the best interests of the children.

The Kansas Court of Appeals found the record adequately supported each of the findings and affirmed the district court.

***In the Interest of J.S.*, 430 P.3d 490, 2018 WL 6005399 (Kan. App. 2018) (unpublished opinion).**

Father appealed the termination of parental rights to his son, arguing the district court erred in finding he was unfit, unlikely to change in the foreseeable future, and that termination was in the best interest of the child. The district court found the father unfit under three statutory factors: failure to assure care of the child in the parental home when able to do so; failure to maintain regular visitation, contact or communication with the child or custodian; and lack of effort to adjust to adjust circumstances, conduct, or conditions to meet the needs of the child. The Kansas Court of Appeals found the record adequately supported each of the findings and affirmed the district court.

***In Interests of A.H. and J.J.*, 419 P.3d 660, 2018 WL 2451807 (Kan. App. 2018) (unpublished opinion).**

Mother appealed from a district court's termination of parental rights, arguing the district court should have continued the hearing because she was at an inpatient drug treatment center at the time the hearing was scheduled. The Kansas Court of Appeals held that the district court did not abuse its discretion in denying the continuance. The Kansas Court of Appeals also rejected Mother's second appellate argument, ruling that Mother's failure to make progress on drug issues and multiple court orders adequately supported the district court's finding that mother's conduct was unlikely to change in the foreseeable future.

***In Interest of J.C.-G.*, 420 P.3d 497, 2018 WL 2749117 (Kan. App. 2018) (unpublished opinion).**

Mother argued the district court's application of a presumption of unfitness violated her constitutional rights. The Kansas Court of Appeals rejected her argument, finding the district court's use of the presumption after satisfying each statutory requirement constitutional. Mother also argued that the district court abused its discretion when it placed the child with a person who had provided previous placement rather than with DCF and that the district court's findings lacked sufficient evidence. The Court of Appeals rejected both arguments, affirming the district court.

***Matter of the Marriage of Novacek*, 421 P.3d 776, 2018 WL 3320195 (Kan. App. 2018) (unpublished opinion).**

Mother challenged the district court's decision to grant primary residential custody of her children to their father, her ex-husband. The Court of Appeals affirmed, finding no abuse of discretion and determining the district court properly applied the statutory factors in K.S.A. 2017 Supp. 23-3203(a). Mother also challenged the district court's denial of her motion to reconsider (or alternatively, to modify the custody

decision). The Court of Appeals affirmed the district court because mother failed to make a prima facie case of material change in circumstances.

***In Interest of C.E.*, 424 P.3d 569, 2018 WL 4167221 (Kan. App. 2018) (unpublished opinion).**

The district court terminated Father's parental rights after making findings of unfitness due to conduct toward the child of a physically, emotionally, sexually cruel or abusive nature, and for physically, mentally, or emotionally neglecting the child. The district court also found this conduct was unlikely to change in the foreseeable future and that termination was in the best interest of the child. Father appealed the termination of his parental rights, arguing that he did not have a fair trial, the district court erred in presuming unfitness because none of the statutory unfitness factors applied, and the State failed to comply with the Indian Child Welfare Act (ICWA) requirement to complete an inquiry into the child's status. Father argued allowing the child to testify from behind a screen blocking the child from his view, his arrest in the courtroom in front of the child for aggravated indecent liberties, and the district court's refusal to reopen the case to hear his of newly discovered evidence all deprived him of a fair trial. The Kansas Court of Appeals rejected each of these unfair trial arguments, and affirmed the district court's findings of unfitness. The Court of Appeals remanded the case to the district court to determine after proper notice to the Cherokee Nation if the child qualifies as an Indian child under ICWA.

***In the Interests of G.A-S., G.A-S., and D.A-S.*, 417 P.3d 271, 2018 WL 2170077 (Kan. App. 2018) (unpublished opinion).**

The district court terminated Mother's parental rights after finding she was unfit, and that her conduct was unlikely to change in the foreseeable future. The Kansas Court of Appeals affirmed the district court, rejecting Mother's appellate argument that the district court abused its discretion and lacked substantial competent evidence to support its findings. The Court of Appeals found clear and convincing evidence supporting the district court's finding of Mother's unfitness due to drug use and the finding that Mother failed to carry out a court-approved plan to reintegrate the children into her home. The district court's termination of Mother's rights was reasonable, so it did not abuse its discretion.

***In the Interests of V.S., A.S., and E.J.*, 423 P.3d 562, 2018 WL 3795947 (Kan. App. 2018) (unpublished opinion).**

The district court terminated Mother's parental rights after finding she was unfit, her conduct was unlikely to change in the foreseeable future, and termination was in the best interests of the children. The Kansas Court of Appeals affirmed the district court, rejecting Mother's appellate argument that the district court abused its discretion and lacked substantial competent evidence to support its findings.