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temporary custody hearing, the parties should present evidence of their current circumstances.

V. CONCLUSION

Because the district court failed to consider evidence of the parties' current circumstances, we reverse the district court's decision to modify the original paternity decree and remand the case with directions to hold a new hearing where the parties can present evidence of their current circumstances. Such evidence should demonstrate events that occurred after December 2006 up to the time of the new hearing. The district court should also hold a new hearing to determine temporary custody of the children pending a new modification hearing.

REVERSED AND REMANDED WITH DIRECTIONS.

IN RE INTEREST OF TEGAN V., A CHILD UNDER 18 YEARS OF AGE. STATE OF NEBRASKA, APPELLANT, V. MIKALLE S., APPELLEE.

794 N.W.2d 190

Filed January 18, 2011. No. A-10-735.

1. **Judgments: Jurisdiction: Appeal and Error.** A jurisdictional question which does not involve a factual dispute is determined by an appellate court as a matter of law, which requires the appellate court to reach a conclusion independent from the lower court's decision.
2. **Statutes: Appeal and Error.** Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court.
3. **Jurisdiction: Words and Phrases.** Jurisdiction is the inherent power or authority to decide a case.
4. ____: ____. Jurisdiction of the subject matter means the authority to hear and determine both the class of actions to which the action before the court belongs and the particular question which it assumes to decide.
5. **Juvenile Courts: Jurisdiction: Statutes.** As a statutorily created court of limited and special jurisdiction, a juvenile court has only such authority as has been conferred on it by statute.
6. **Statutes.** Statutes relating to the same subject matter will be construed so as to maintain a sensible and consistent scheme, so that effect is given to every provision.
7. **Child Custody: Jurisdiction.** The jurisdiction of a state to regulate the custody of infants found within its territory does not depend upon the domicile of the

child, but it arises out of the power that every sovereignty possesses as parens patriae to every child within its borders to determine its status and the custody that will best meet its needs and wants, and residence within the state suffices even though the domicile may be in another jurisdiction.

8. **Juvenile Courts: Venue: Proof.** In a proceeding under the Nebraska Juvenile Code, the State is not required to prove proper venue.
9. **Minors: Venue: Proof.** Proof of venue is immaterial to the determination of whether a juvenile falls within the meaning of Neb. Rev. Stat. § 43-247 (Reissue 2008).
10. **Juvenile Courts: Jurisdiction.** Although the grounds for adjudication alleged in an amended juvenile petition supersede those in the original petition, the physical locus of the child at the time the amended petition is filed does not affect the juvenile court's subject matter jurisdiction.
11. **Juvenile Courts: Minors.** The Nebraska Juvenile Code must be liberally construed to accomplish its purpose of serving the best interests of the juveniles who fall within it.
12. **Parental Rights: Trial: Time.** A parent and a child, both being parties, have a right to a speedy adjudication hearing.

Appeal from the Separate Juvenile Court of Douglas County: VERNON DANIELS, Judge. Reversed and remanded for further proceedings.

Donald W. Kleine, Douglas County Attorney, Jordan Boler, and Daniel Gubler and Austin Vandeveer, Senior Certified Law Students, for appellant.

Michaela Skogerboe, of Harris Kuhn Law Firm, L.L.P., for appellee.

Lynnette Z. Boyle, of Tietjen, Simon & Boyle, guardian ad litem.

INBODY, Chief Judge, and SIEVERS and CASSEL, Judges.

SIEVERS, Judge.

The State of Nebraska appeals from an order of the Douglas County Separate Juvenile Court that sustained Mikalle S.' motion to dismiss the adjudication proceedings concerning her minor child, Tegan V. Although the juvenile court did not provide any explanation for sustaining Mikalle's motion, the motion to dismiss was premised on an alleged lack of subject matter jurisdiction. That alleged jurisdictional defect

stems from the fact that Tegan was placed in foster care with her paternal grandmother in Sarpy County by the Nebraska Department of Health and Human Services (DHHS) after the child's removal from Mikalle's custody and prior to the time the State filed its amended petition. We find that the juvenile court's undisputed jurisdiction over the original petition for adjudication was not lost merely because Tegan was placed in foster care in another county before the amended petition was filed. Thus, the dismissal of the State's petition for lack of subject matter jurisdiction was erroneous as a matter of law. We therefore reverse the dismissal order of the Douglas County Separate Juvenile Court and remand the cause to that court for further proceedings.

BACKGROUND

On December 7, 2009, the State filed a petition alleging that Tegan, a child less than a year old, came within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008), being a minor lacking in proper parental care by reason of the faults or habits of Mikalle, the child's natural mother. The State filed the petition after Mikalle took Tegan to the emergency room at a Douglas County hospital for second-degree burns the child sustained on the majority of her face, both ears, and her neck. The affidavit in support of the State's accompanying motion for immediate removal recites that Tegan's treating physician expressed that the burn pattern on Tegan's head and neck did not "'match'" the explanation for the injuries provided by Mikalle, and the juvenile court's order granting DHHS immediate custody cites the physician's assertion that the burns were "nonaccidental" in nature. Thus, the factual basis for adjudication provided in the petition was that Tegan was observed with second-degree burns on her head and neck which occurred while she was in the custody and care of Mikalle, that Mikalle "failed to provide any reasonable explanation for said injuries," and that as a result, Tegan was at risk for harm. At the detention hearing held thereafter, the court ordered that Tegan would remain in DHHS custody until further notice and provided Mikalle with "reasonable rights of strictly supervised visitation."

On February 23, 2010, the State filed an amended petition that added the following counts to those regarding the second-degree burns on Tegan's head and neck: (1) "[Mikalle] has failed to attend visits or otherwise have any contact with [Tegan] for approximately 10 weeks while said child has been in the care and custody of [DHHS]," and (2) "[Mikalle] has failed to provide proper parental care, support and/or supervision for said child." On March 1, an adjudication hearing was held on the amended petition and was continued to March 8. At the continued adjudication hearing, a deputy Douglas County Attorney informed the court that the State would be proceeding with only the claim from the amended petition, quoted above, and not with the claims related to the burns on Tegan's head and neck. In addition, the juvenile court was advised that DHHS had temporarily placed Tegan in foster care with her paternal grandmother in Sarpy County and that the child was living there at the time the amended petition was filed. Upon learning that information, Mikalle moved to dismiss the case for lack of subject matter jurisdiction, arguing that because Tegan was residing in Sarpy County on the date the amended petition was filed, the Douglas County Separate Juvenile Court no longer had jurisdiction. In response, the State argued that because Tegan was in the custody of a DHHS office located in Douglas County, "the child is found in Douglas County at the time of the filing of the amended petition," meaning that the Douglas County Separate Juvenile Court retained jurisdiction. The guardian ad litem joined the argument of the State and moved for a continuance to allow the parties to brief the issue of subject matter jurisdiction, which motion the juvenile court sustained. Accordingly, the parties were ordered to submit briefs on the following issue:

> In a situation where the state has filed an amended petition following a detention hearing where the Separate Juvenile Court for Douglas County has placed a child with [DHHS] for placement, does the Separate Juvenile Court for Douglas County have subject matter jurisdiction if at the time the amended petition was filed the child was placed in another county by [DHHS].

On July 16, 2010, after receiving briefs from the parties and taking the matter under advisement, the court issued an order sustaining Mikalle's motion to dismiss for lack of subject matter jurisdiction, without prejudice, and ordering that DHHS be relieved from any further responsibility in the matter. Significantly, the court did not provide any authority or explanation for its action. The State now timely appeals.

ASSIGNMENT OF ERROR

The State alleges that the Douglas County Separate Juvenile Court erred in sustaining Mikalle's motion to dismiss, because the court had jurisdiction to hear the case.

STANDARD OF REVIEW

[1] A jurisdictional question which does not involve a factual dispute is determined by an appellate court as a matter of law, which requires the appellate court to reach a conclusion independent from the lower court's decision. *US Ecology v. State*, 258 Neb. 10, 601 N.W.2d 775 (1999).

[2] Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court. *State v. State Code Agencies Teachers Assn.*, 280 Neb. 459, 788 N.W.2d 238 (2010).

ANALYSIS

While an explicit ruling providing the basis for the dismissal would have been desirable, we assume that the juvenile court concluded that it lacked subject matter jurisdiction because that was the basis of the motion to dismiss and subject matter jurisdiction was the issue the court ordered briefed.

[3,4] Thus, we begin by recalling that jurisdiction is the inherent power or authority to decide a case. See *Chicago Lumber Co. v. School Dist. No. 71*, 227 Neb. 355, 417 N.W.2d 757 (1988). "Jurisdiction of the subject matter" means the authority to hear and determine both the class of actions to which the action before the court belongs and the particular question which it assumes to decide. *State v. Smith*, 269 Neb. 773, 779, 696 N.W.2d 871, 879 (2005).

[5,6] As a statutorily created court of limited and special jurisdiction, a juvenile court has only such authority as has been conferred on it by statute. *In re Interest of Jorge O.*, 280 Neb. 411, 786 N.W.2d 343 (2010). Thus, we look to the Nebraska Juvenile Code, Neb. Rev. Stat. §§ 43-245 to 43-2,129 (Reissue 2008 & Supp. 2009), to determine the extent of the juvenile court's jurisdictional authority over this case. And because those statutes relate to the same subject matter, we construe them so as to maintain a sensible and consistent scheme, so that effect is given to every provision. See *In re Application of Metropolitan Util. Dist.*, 270 Neb. 494, 704 N.W.2d 237 (2005).

[7] Both the petition and the amended petition allege that Tegan comes within the meaning of § 43-247(3)(a) because she is lacking proper parental care by reason of the fault or habits of Mikalle. "Juvenile" is defined in the Nebraska Juvenile Code under § 43-245(6) as any person under the age of 18—Tegan is obviously a juvenile. Section 43-247 gives the juvenile courts "exclusive original jurisdiction" as to "any juvenile" defined in § 43-247(3). The juvenile court's subject matter jurisdiction is far reaching. In *Jones v. State*, 175 Neb. 711, 717, 123 N.W.2d 633, 637 (1963), the court said:

> The jurisdiction of a state to regulate the custody of an infant found within its territory does not depend upon the domicile of the parents. It has its origin in the protection that is due to the incompetent or helpless. As we said in [*In re Application of Reed*, 152 Neb. 819, 43 N.W.2d 161 (1950)]: "The jurisdiction of a state to regulate the custody of infants found within its territory does not depend upon the domicile of the child, but it arises out of the power that every sovereignty possesses as parens patriae to every child within its borders to determine its status and the custody that will best meet its needs and wants, and residence within the state suffices even though the domicile may be in another jurisdiction."

Other cases have followed the rule that neither the domicile of the parent nor that of the child is determinative of the court's subject matter jurisdiction. See, *Copple v. Copple*, 186 Neb. 696, 185 N.W.2d 846 (1971); *Miller v. Department of Public*

Welfare, 182 Neb. 155, 153 N.W.2d 737 (1967). This expansive subject matter jurisdiction, found in the State's common law, is codified in the juvenile code. Section 43-247 provides that the juvenile court in "each county" shall have jurisdiction over "any juvenile" who lacks proper parental care by reason of the fault or habits of the child's parent, guardian, or custodian. See § 43-247(3)(a).

Moreover, § 43-282 allows an adjudication proceeding to be filed in any county and allows for discretionary transfer, after adjudication, to the county where the juvenile is living or domiciled, stating in part:

> If a petition alleging a juvenile to be within the jurisdiction of the Nebraska Juvenile Code is filed in a county other than the county where the juvenile is presently living or domiciled, the court, at any time after adjudication and prior to final termination of jurisdiction, may transfer the proceedings to the county where the juvenile lives or is domiciled and the court having juvenile court jurisdiction therein shall thereafter have sole charge of such proceedings and full authority to enter any order it could have entered had the adjudication occurred therein.

[8,9] This statute is consistent with the holding of *In re Interest of Leo L.*, 258 Neb. 877, 606 N.W.2d 783 (2000), where the court considered whether the State has to prove venue in a juvenile case. The court held that "in a proceeding under the Nebraska Juvenile Code, the State is not required to prove proper venue." *In re Interest of Leo L.*, 258 Neb. at 881, 606 N.W.2d at 786. Although *In re Interest of Leo L.* was an adjudication proceeding filed under § 43-247(1) arising out of a juvenile's law violation, the court did not limit its holding to that subsection of § 43-247. Rather, the court concluded its analysis by saying, "Proof of venue is immaterial to the determination of whether a juvenile falls within the meaning of § 43-247." *In re Interest of Leo L.*, 258 Neb. at 881, 606 N.W.2d at 786. Clearly, § 43-282 makes venue immaterial in addition to setting up a procedure for transfer, which in this case could well be to the Sarpy County Separate Juvenile Court, in the discretion of the Douglas County Separate Juvenile Court.

Section 43-274 contains what arguably can be considered as the only limitation on venue for a juvenile proceeding under § 43-247. Section 43-274(1) states, in pertinent part:

> The county attorney, having knowledge of a juvenile *in his or her county* who appears to be a juvenile described in subdivision . . . (3) . . . of section 43-247, may file with the clerk of the court having jurisdiction in the matter a petition in writing specifying which subdivision of section 43-247 is alleged, setting forth the facts verified by affidavit . . . .

(Emphasis supplied.)

Thus, it is clear that § 43-274(1) authorizes a county attorney with knowledge of a juvenile "in his or her county" falling within the purview of § 43-247(3)(a) to file a petition in that county's juvenile court. This is what occurred when the deputy Douglas County Attorney filed the original petition to adjudicate Tegan under § 43-247(3)(a) in the Douglas County Separate Juvenile Court. The original petition was filed in a proper court, because there is no dispute that Tegan was "in" Douglas County residing with Mikalle when the child's burn injuries came to the attention of the authorities, which event gave rise to the filing of the original petition.

By sustaining Mikalle's motion, the Douglas County Separate Juvenile Court implicitly ruled that it no longer had jurisdiction because Tegan was temporarily in Sarpy County when the State filed its amended petition, despite the fact that the court obviously had jurisdiction when the original petition was filed. We have not found a similar procedural background in a reported Nebraska case; nor is there any Nebraska authority—case law or statutory—for what the trial court did. And, construing the juvenile code so as to maintain a sensible and consistent scheme, so that effect is given to every provision, we conclude that the dismissal was error as a matter of law. See *In re Application of Metropolitan Util. Dist.*, 270 Neb. 494, 704 N.W.2d 237 (2005).

Mikalle cites to *In re Interest of Rondell B.*, 249 Neb. 928, 546 N.W.2d 801 (1996), for the proposition that "[w]hen an amended petition is filed, the preceding petition ceases to have any function." Brief for appellee at 14. Her argument is

that "the filing of the Amended Petition wiped out the existence of the original Petition." *Id.* And thus—if we were to follow her logic—the amended petition did not comply with § 43-274, because Tegan was not located in Douglas County when the amended petition was filed. We are not persuaded. First, Mikalle would have us view the adjudication proceeding as having never been instituted by the original petition, when the reality is that the amended petition only really changes the issues to be litigated. Second, were we to uphold her position, and the trial court's dismissal, we would create an absurdity, because any time a child in the custody of DHHS were physically placed outside the geographic boundaries of the county where the juvenile proceedings were initiated, a dismissal would result if the original petition were amended after such placement, meaning that the proceedings would need to be reinstituted in the county that the child was now "in" under § 43-274(1). Obviously, that result would produce great inefficiencies and substantially increase the costs of the juvenile justice system. And, we can envision that DHHS would be forced to forgo what might be the best foster care placement for a child in order to avoid these obvious inefficiencies and costs. Third, we would be ignoring the statutory provisions for the transfer of a juvenile case to another venue, found in § 43-282.

[10] The case upon which Mikalle relies, *In re Interest of Rondell B., supra*, involved the question of whether a juvenile court had personal jurisdiction over a juvenile's mother—not whether a juvenile court lost subject matter jurisdiction when the custodian, DHHS, placed the child in a foster home outside of the county where the adjudication proceedings were pending. The present situation is clearly distinguishable from that of *In re Interest of Rondell B.*, as we are dealing with subject matter, not personal, jurisdiction. Although the grounds for adjudication alleged in the amended petition supersede those in the original petition, the physical locus of the child at the time the amended petition was filed does not affect the Douglas County Separate Juvenile Court's subject matter jurisdiction.

[11] In fact, it is wholly illogical for the Douglas County Separate Juvenile Court to be stripped of its irrefutable

subject matter jurisdiction over Tegan's adjudication proceeding merely because the child was placed in foster care in another county prior to the filing of the State's amended petition. The public policy concerns that would be implicated if that result were truly the applicable law are far reaching. For example, as is the case here, the temporary placement of juveniles with blood relatives in other counties would be discouraged, despite such placement's potentially being in the child's best interests. Such a rule would be completely contradictory to the clear directive from the Nebraska Supreme Court that we construe the Nebraska Juvenile Code liberally to accomplish its purpose of serving the best interests of the juveniles who fall within it. See *In re Interest of Gabriela H.*, 280 Neb. 284, 785 N.W.2d 843 (2010).

[12] And, as the State points out, the juvenile court's dismissal of this case is also at odds with the parties' right to a speedy adjudication hearing. See § 43-279.01(1)(f) and *In re Interest of D.M.B.*, 240 Neb. 349, 481 N.W.2d 905 (1992). The Douglas County Separate Juvenile Court has heard every motion and issued every order in this matter since the filing of the petition in December 2009. We agree that dismissal at this juncture impedes Mikalle and Tegan's mutual right to a speedy and efficient adjudication hearing. Starting over in Sarpy County because an amended petition has been filed and DHHS has physically placed Tegan in that county can only be described as an absurd result.

Thus, construing § 43-282 consistently with the rest of the Nebraska Juvenile Code, see *In re Application of Metropolitan Util. Dist.*, 270 Neb. 494, 704 N.W.2d 237 (2005), we find that the Douglas County Separate Juvenile Court should have continued to exercise jurisdiction over Tegan's adjudication proceedings. Then, if the court determined that Tegan came within the meaning of § 43-247(3)(a), as alleged by the State, the court would have had the discretion under § 43-282, depending on the evidence, to transfer the matter to Sarpy County if Tegan were living or domiciled there at that time. However, dismissal of the matter was wrong because the court undoubtedly retained subject matter jurisdiction over the adjudication proceedings despite Tegan's placement in Sarpy County before

the amended petition was filed. In short, such filing did not affect the court's subject matter jurisdiction.

CONCLUSION

The Douglas County Separate Juvenile Court erred in sustaining Mikalle's motion to dismiss for lack of subject matter jurisdiction. We reverse, and remand the cause to that court for further proceedings.

REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.