



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**ALEXANDER M. et al. v. HON. ABRAMS/ADES et al.  
CV-13-0169-PR**

**PARTIES:**

*Petitioners:* Alexander M., Dominica M., Daniel M., Natalie M., and Savannah M.

*Respondent:* Real Party in Interest Arizona Department of Economic Security

**FACTS:**

In April 2012, Arizona Department of Economic Security (“ADES”) took custody of petitioners (“the Children”) on grounds that the parents had abused methamphetamine; the family lived in a one-bedroom apartment with little food; the children did not have adequate clothing; two children were not enrolled in school; and two other children had decaying teeth and were behind on their immunizations. ADES filed a petition alleging that the children were dependent based on abuse and/or neglect. The juvenile court agreed and adjudicated the Children dependent.

ADES developed case plans for each parent designed to reunite the family, and at a hearing in January 2013, the court found that the Children’s mother was substantially compliant and that their father was fully compliant with the respective case plans. The court affirmed a case plan of family reunification. At an April 10, 2013 Permanency Hearing/Dependency Review Hearing, ADES asked the court to give it “discretion for a slow and gradual transition of the minors to the home of their parents.” The Children’s appointed counsel, an attorney from the Pima County Office of Children’s Counsel, objected to granting ADES discretion to return the children to their parents. Counsel argued that, before the Children could be returned to the parents, ADES was required to file a motion asking the court to order the return of the children, and that the court could do so only after holding a Placement Hearing. The court disagreed, ordering:

The Court does not believe that [Juvenile] Rule 59 requires that [ADES] file a written motion and request a hearing prior to placement. The controlling statute is A.R.S. 8-514 and the following statutes, including 8-514.02.

. . .

[ADES] is given discretion for transition and placement of the children with their parents. In the event that transition fails for some reason, the Court expects that placement will be delayed.

. . . THE COURT FINDS that there is no substantial risk of harm to the children being placed with their parents at the point where the housing is secure and

the in-home services are in place.

. . .

THE COURT FURTHER FINDS that placement is in the best interests of the children and that the children will not be at substantial risk of harm at the point that [ADES has] established all the things the Court has ordered in place for the children.

The Children sought relief from the above order by a Special Action filed in the Court of Appeals, which declined jurisdiction. The Arizona Supreme Court granted the Children’s Petition for Review.

**ISSUES:**

- A. “The Court of Appeals inappropriately declined special action jurisdiction because Respondent exceeded her jurisdiction in granting ADES discretion to place Minors with their parents, when numerous juvenile court statutes and rules squarely put the onus for determining appropriateness of return of the child on juvenile court.”
  
- B. “The Court of Appeals inappropriately declined special action jurisdiction because Respondent exceeded her jurisdiction in finding that ADES may receive discretion to return pursuant to A.R.S. § 8-514, because the statute contains several standards of law that must be satisfied prior to placement with a parent.”

**DEFINITIONS**

“**Dependent child,**” as relevant here, is defined in A.R.S. § 8-201(13) to mean a child who the court determines to be:

- (i) In need of proper and effective parental care and control and . . . who has no parent or guardian willing to exercise or capable of exercising such care and control.
  
- (ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care.
  
- (iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child.

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