

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 53693

In the Matter of: John Doe I, A Child)
Under Eighteen (18) Years of Age.)

STATE OF IDAHO, DEPARTMENT OF)
HEALTH AND WELFARE,)

Petitioner-Respondent,)

v.)

JANE DOE (2026-07),)

Respondent-Appellant.)

Filed: October 14, 2026

Melanie Gagnepain, Clerk

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.

Judgment terminating parental rights, vacated and case remanded.

Maloney Law Office; Jolene C. Maloney, Conflict State Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; James T. Baird, Deputy Attorney General, Twin Falls, for respondent.

PETTY, Judge

Jane Doe (2026-07) (Mother) appeals from the magistrate court's judgment terminating her parental rights to John Doe I (Child). Mother argues that the magistrate court improperly allowed her attorney to withdraw on the morning of the termination trial and then proceeded with the trial in violation of her procedural and constitutional rights. We vacate the judgment terminating Mother's parental rights and remand the case for proceedings consistent with this opinion.

I.

FACTUAL AND PROCEDURAL BACKGROUND

Mother is the biological mother of Child.¹ The Idaho Department of Health and Welfare (Department) filed a Child Protective Act (CPA) petition after receiving notification that fluid in Child's umbilical cord tested positive for methamphetamine. Child was taken into custody by the Department in February 2022. At a shelter care hearing, held in February 2022, Mother stipulated to the Department's continued temporary custody of Child as she did not have a stable home environment and the identity of Child's father was unknown at the time of this hearing. A case plan was ordered for Mother to reunify with Child. In February 2024, after Mother was unable to complete the case plan, the Department filed a petition for termination of parental rights alleging that both Mother and Father neglected Child. A termination trial was held in December 2025.

On the morning of trial, Mother's attorney moved to withdraw because the communication between Mother and attorney had broken down. The magistrate court then asked Mother whether she wanted to represent herself. Mother replied:

I feel like I have no choice at this point because I'm trying to talk to [Mother's attorney] about some stuff that I feel it would be to my benefit and I feel it's relevant, and she's getting upset with me and telling me she won't even do it for me, and it's not--(unintelligible).

The magistrate court explained to Mother that if she represented herself she would not understand the proceedings, legal standards, and rules of evidence. The magistrate court then inquired what Mother would like to do. Mother responded:

[MOTHER]: I just know that I don't know how to get the stuff that I want the Court to see out here, because I keep trying and nobody will do it for me. And I don't know what else -- I don't know what else I got to lose to represent myself because I feel --

THE COURT: Very good. [Mother's attorney], you're excused.

Father's attorney then inquired whether the withdrawal of Mother's attorney required a stay in the case. The magistrate court then explained its reasoning:

THE COURT: In the juvenile rule it says that I am to appoint counsel for the parents if it finds that they're financially unable to pay for such

¹ Child's biological father's parental rights were also terminated. That decision was affirmed by this Court in *Idaho Dep't of Health and Welfare v. John Doe* (2026-03), No. 53665, 2026 WL 1283963, at *1 (Idaho Ct. App. May 6, 2026).

services unless representation is competently and intelligently waived.

....

THE COURT: Well, the rule relating to withdrawal of attorneys and substitution is [Idaho Rule of Civil Procedure] 11.3. Substitution says that in general, an attorney may be substituted by the filing of a written notice. And then as to the withdrawal -- okay. So [I.R.C.P.] 11.3(c)(2) does say that an action is stayed for 21 days after service by the Court of an order allowing withdrawal. What seems to have happened in this case is that there was a substitution in which [Mother] has elected to represent herself and not be represented by counsel. It is her right to do so. She has a constitutional right to represent herself. And I don't think the rules staying the proceedings or requiring her or giving her time to find other counsel apply in a situation in which she's voluntarily elected to represent herself. So that's my feeling. Do you have anything to say about that, [Mother]?

[MOTHER]: I feel that I would need some time to be able to file some paperwork that I would like to that I've been trying to get filed, and I've been asking for help to fill it out. And I've been told by two people that said she had to help me, and she hasn't.

The magistrate court then proceeded with the termination trial. Later that day, the magistrate court returned to the issue of Mother representing herself. The magistrate court explained to Mother its understanding of what happened earlier in the day: "I think you didn't think it was the best thing in the world to be representing yourself, you did decide in a reasoned and adult fashion that it was your best option from your point of view for today's trial." After some discussion, Mother expressed that she felt she had no choice and did not feel that representing herself was in her best interest. Mother explained that she wanted to make a request, and the magistrate court asked "[t]ell me what motion you want to file" and "[j]ust tell me what it is you want." Mother responded, "Say a pause and a continuance because I haven't--because I have evidence to show. . . ." After further discussion, the magistrate court explained that Mother's attorney had already asked for a continuance. Mother stated, "But she didn't state the reasons why I'm asking for it." The magistrate court did not grant Mother's request for a continuance. The trial proceeded.

Following the trial, the magistrate court found that Mother neglected Child and that terminating Mother's parental rights was in Child's best interests. The magistrate court entered a judgment terminating Mother's parental rights. Mother appeals.

II. STANDARD OF REVIEW

A trial court's decision to grant or deny an attorney's motion for substitution or leave to withdraw is reviewed for an abuse of discretion. *See Hollis v. State*, 174 Idaho 168, 173, 551 P.3d 1262, 1267 (2024). When a trial court's discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the lower 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).

III. ANALYSIS

On appeal, Mother argues three issues: (1) that “the [m]agistrate [c]ourt erred by disregarding the procedural requirements for withdrawal and substitution of counsel”; (2) that the magistrate court erred by failing to adequately ensure that Mother knowingly, voluntarily, and intelligently waived her right to counsel; and (3) that Mother was deprived of her due process right to meaningfully participate in the trial. Since we find that the judgment is void based upon Mother's first argument, the remaining arguments will not be addressed.

A. The magistrate court erred by finding that Mother substituted herself for appointed counsel under Idaho Rule of Civil Procedure 11.3(a).

Mother argues that the magistrate court erred by finding that Mother had substituted herself for her attorney under I.R.C.P. 11.3(a). Mother asserts that her attorney withdrew and that the magistrate court improperly allowed the attorney to withdraw without meeting the procedural requirements in I.R.C.P. 11.3(b). In response, the Department argues that the magistrate court acted properly when it excused Mother's attorney from the termination trial.

The Idaho Rules of Civil Procedure apply to Child Protective Act proceedings when they are not inconsistent with the Idaho Juvenile Rules, statutes, or the law. I.J.R. 29. Substitution and withdrawal of an attorney are permitted under I.R.C.P. 11.3. Substitution of an attorney occurs when a written notice signed by both the new attorney and withdrawing attorney has been filed with the court. I.R.C.P. 11.3(a). Substitution of an attorney does not require court approval, but

it must not delay the proceedings except when there is good cause. I.R.C.P. 11.3(a)(2). An attorney may withdraw under I.R.C.P. 11.3(b) when the requirements of the rule are met:

(1) *Leave of Court Required.* To withdraw from an action, except by substitution, an attorney must first obtain the leave of the court. The attorney seeking to withdraw must file a motion with the court and set the matter for hearing, and must provide notice to all parties, including the party the withdrawing attorney represents in the proceeding. The attorney must provide the last known address of the client in any notice of or motion for withdrawal.

(2) *When Granted.* By written order the court may grant leave to withdraw for good cause and upon such conditions or sanctions as will prevent delay or prejudice to the parties.

The written order must be properly served by the clerk of the court. I.R.C.P. 11.3(c)(1); *accord* I.R.C.P. 2.3(b). The order must also advise the party whose attorney withdrew that, within twenty-one days after service of the order, it must either appoint another attorney to appear or file notice with the court that the party will be self-represented, otherwise a default judgment may be entered without further notice. I.R.C.P. 11.3(c)(1). “An action is stayed for 21 days after service by the court of an order allowing withdrawal of attorney.” I.R.C.P. 11.3(c)(2).

Strict compliance with the withdrawal requirements in I.R.C.P. 11.3(b)-(c) are required to obtain a valid judgment. *Wright v. Wright*, 130 Idaho 918, 921, 950 P.2d 1257, 1260 (1998).² Judgments or orders of dismissal obtained due to a failure to strictly comply with the rule are void and should be set aside. *See Nunez v. Johnson*, 163 Idaho 692, 697-98, 417 P.3d 1018, 1023-24 (Ct. App. 2018) (order of dismissal set aside because the plaintiff did not receive notice of the attorney’s motion to withdraw or notice of the hearing on the motion to withdraw); *McDavid v. Kiroglu*, 155 Idaho 49, 54, 304 P.3d 1215, 1220 (Ct. App. 2013) (default judgment vacated because order granting the attorney’s withdrawal was not properly served); *Fisher Sys. Leasing, Inc. v. J & J Gunsmithing & Weaponry Design, Inc.*, 135 Idaho 624, 628, 21 P.3d 964, 950 (Ct. App. 2001) (holding that a default judgment was invalid because the withdrawal order was not properly served); *Wright*, 130 Idaho at 922, 950 P.2d at 1261 (a default judgment was void because a party was not properly served with the order allowing withdrawal of counsel).

In the case now before the Court, the magistrate court found that “there was a substitution in which [Mother] has elected to represent herself and not be represented by counsel.” Substitution of counsel is permitted only when a notice signed by “both the new attorney and the withdrawing

² The rules now enumerated in I.R.C.P. 11.3 were previously contained in I.R.C.P. 11(b)(2)&(b)(3).

attorney” is filed with the court. I.R.C.P. 11.3(a)(1). Mother is not an attorney so she cannot substitute for her attorney, and written notice was not filed with the magistrate court. The magistrate court erred by finding that there was a substitution of counsel when, in fact, Mother’s counsel withdrew from the case.

The magistrate court permitted Mother’s attorney to withdraw without strict compliance with the requirements of I.R.C.P. 11.3(b). Mother’s attorney did not file a motion to withdraw, the motion was not set for hearing, and a notice of hearing was not provided to all of the parties. Even if Mother’s counsel had properly withdrawn, the action would have been stayed for twenty-one days under I.R.C.P. 11.3(c)(2). Mother would then be entitled to obtain a new attorney or advise the court that she intended to represent herself. If she chose to represent herself, she would have had time to prepare for the termination trial. Mother did not agree to waive the automatic stay and proceed with the termination trial. Instead, she requested a continuance of the trial after her attorney withdrew and that request should have been granted.

Here, there was not a substitution of counsel and the magistrate court improperly permitted Mother’s attorney to withdraw on the morning of the termination trial. The magistrate court erred by allowing Mother’s attorney to withdraw. The judgment terminating Mother’s parental rights is, therefore, void.

IV.

CONCLUSION

The magistrate court erred by finding that Mother substituted for her attorney, and her attorney was improperly permitted to withdraw without strict compliance with the requirements of I.R.C.P. 11.3(b)-(c). The judgment terminating Mother’s parental rights is vacated, and the case is remanded for proceedings consistent with this opinion.

Chief Judge TRIBE and Judge Pro Tem MELANSON, **CONCUR.**