

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

IN RE INTEREST OF JERIKA J. ET AL.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
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IN RE INTEREST OF JERIKA J. ET AL., CHILDREN UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

JACQUELINE J., APPELLANT, AND MATTHEW J., APPELLEE.

Filed September 15, 2026. No. A-25-532.

Appeal from the Separate Juvenile Court of Lancaster County: ELISE M.W. WHITE, Judge.
Affirmed.

Steffanie J. Garner Kotik, of Kotik & McClure Law, for appellant.

Christopher M. Reid, Deputy Lancaster County Attorney, for appellee State of Nebraska.

RIEDMANN, Chief Judge, and PIRTLE and PICCOLO, Judges.

PIRTLE, Judge.

INTRODUCTION

Jacqueline J. appeals the order of the separate juvenile court of Lancaster County terminating her parental rights to her minor children. She contends the court erred in finding that terminating her parental rights was in the minor children's best interests. For the reasons set forth herein, we affirm.

BACKGROUND

Jacqueline and Matthew J. are the natural parents of Jerika J., born October 2012; Lillian J., born April 2017; and Novella J., born July 2018. Matthew's parental rights were terminated during these same proceedings but he is not involved in this appeal and will only be referenced as necessary for context.

On November 21, 2023, the State filed a petition to adjudicate Jerika, Lillian, and Novella, alleging the children lacked proper parental care by reason of the fault or habits of Jacqueline and/or the children were in a situation dangerous to life or limb or injurious to their health or morals based upon the following: (a) Jacqueline had an open juvenile court case involving a sibling of Jerika, Lillian, and Novella's, where the sibling had been removed from the home, Jacqueline had not completed the court ordered services to have the sibling placed back in her care, nor had she corrected the conditions that led to the adjudication and removal of the sibling; (b) as recently as November 5, 2023, Jacqueline had exhibited behaviors and/or made statements indicative of mental health instability and/or drug and alcohol abuse in the home and/or in the presence of one or more of the children; (c) within the last year, Jacqueline and Matthew had engaged in assaultive, threatening, verbally aggressive, destructive and/or disturbing behavior toward each other in the home and/or in the presence of one or more of the children; (d) Jacqueline had failed to provide a safe and stable home, proper and necessary care, supervision, and/or protection for said juveniles; and (e) these matters placed the children at risk of harm.

A motion for ex parte temporary custody of the children was filed the same day as the petition. In support of the motion, an affidavit of Anna Stoltenberg, a child and family services specialist with the Department of Health and Human Services (DHHS), was attached. The affidavit stated that Jacqueline's son, Jacobi T., was placed out of the home on October 4, 2023; that Jacqueline had minimal engagement in the case and was not willing to participate in any court ordered services; and she had not had any visitation with Jacobi since he was placed out of the home. The affidavit further stated that there had been ongoing concerns of domestic violence and mental health struggles between Jacqueline and Matthew for at least a year, and it set out the details of two intakes DHHS had received involving the family.

On November 21, 2023, Jerika, Lillian, and Novella were removed from Jacqueline's care and placed in the temporary custody of DHHS. The court initially allowed the children to be placed with Matthew, as long as Jacqueline was not in the home. However, on December 4, the children were removed from Matthew's care and placed in a relative foster home.

An adjudication hearing was held and Jacqueline pled no contest to the allegations in the petition. On February 9, 2024, following the hearing, the court entered an order, adjudicating the children pursuant to Neb. Rev. Stat. § 43-247(3)(a) (Cum. Supp. 2024). The court ordered Jacqueline to cooperate with an initial diagnostic interview with a substance abuse component, to not use or possess alcohol or controlled substances, and to submit to random drug and alcohol testing.

Following a disposition hearing on April 10, 2024, the court continued its previous orders for Jacqueline, and she was also ordered to have supervised parenting time with the children; successfully complete a domestic violence program; have no contact with Matthew; cooperate with the creation of a safety plan; not engage in and report any involvement in threatening, controlling, or manipulative behavior, or physical altercation/aggression with any individual; maintain a safe and stable living environment; maintain employment or other legal means of support; maintain contact with her case manager; and report any law enforcement contact to her case manager.

Review hearings took place on July 16, 2024, November 21, 2024, and February 20, 2025. In July 2024, the juvenile court continued the same orders for Jacqueline. In November 2024, the court continued its prior orders except for the requirement of an initial diagnostic evaluation as it

had been completed by Jacqueline. Instead, the court ordered Jacqueline to complete outpatient mental health therapy and cooperate with community support/peer group support, both of which were recommended by her evaluation. The court also ordered her to take medications as prescribed by her treating provider. In February 2025, Jacqueline's court orders remained the same.

On March 12, 2025, the State filed a motion for termination of parental rights, alleging that statutory grounds to terminate existed under Neb. Rev. Stat. § 43-292(2), (6), and (7) (Reissue 2016), and that terminating Jacqueline's parental rights was in the children's best interests.

A termination hearing was held in June 2025. At the hearing, Stoltenberg testified that she was initially assigned to Jacobi's case and was assigned to the present case in November 2023. She continued as the case manager until January 2025, when Jared Ruwe took over the case. Stoltenberg testified that Jerika, Lillian, and Novella were removed from Jacqueline's care because DHHS had received multiple intakes in the fall of 2023 with concerns of mental health and ongoing domestic disputes between Jacqueline and Matthew.

Regarding Jacqueline's compliance with the court's orders, Stoltenberg testified that Jacqueline started to participate in outpatient mental health therapy but later decided she wanted to switch to a different therapist. She was in between therapists when the case was transferred to Ruwe. Stoltenberg testified Jacqueline had a peer support group and was participating in agency supervised parenting time. Stoltenberg never recommended a lower level of supervised parenting time. Jacqueline was employed most of the time Stoltenberg was assigned to the case.

Stoltenberg testified Jacqueline was inconsistent with drug testing and at the time the case was transferred to Ruwe in January 2025, Jacqueline was not submitting to drug testing at all. As a result, Stoltenberg was never able to confirm that Jacqueline was maintaining her sobriety. Jacqueline had started a domestic violence program but had not completed it during the time Stoltenberg was assigned to the case. Jacqueline did not have her own housing, and went between living at the "Mission," living in her vehicle, and staying with family and friends. DHHS had assigned a family support worker to help Jacqueline obtain housing.

Stoltenberg testified Jacqueline had made positive progress in completing some court-ordered requirements but was inconsistent in other areas. There were also delays in services due to Jacqueline being incarcerated at different times. Her most recent incarceration was from May to August 2024. She had been charged with crimes on at least five different occasions.

Ruwe, a child and family services specialist at DHHS, became the case manager in January 2025. Ruwe testified that on May 28, 2025, a few weeks before the termination hearing, Jacqueline tested positive for methamphetamines and amphetamines through a hair follicle test. She had been noncompliant with submitting to random drug testing and claimed there were barriers preventing her from participating.

Jacqueline reported to Ruwe that she had been attending AA meetings, but he had not received any verification. Jacqueline had participated in domestic violence education, but Ruwe could not recall if she had completed it. Ruwe testified that Jacqueline was homeless and living in her vehicle. She indicated to Ruwe that she was working with the Housing Authority to get a housing voucher. To Ruwe's knowledge, Jacqueline was employed during the time he had been assigned to the case. He testified that she continued to work with her family support worker and resumed individual therapy in March 2025 with a new therapist. She had been consistent for the most part in attending supervised parenting time. However, the same week of the termination

hearing, he had to pause Jacqueline's parenting time because he learned she had an outstanding warrant related to police contact in January 2025. At the termination hearing, the warrant was no longer active because Jacqueline turned herself in to police.

Ruwe testified he did not foresee being able to reunify the children with Jacqueline anytime soon. He believed it was in the children's best interests to terminate Jacqueline's parental rights.

Jacqueline testified that it had been a "long time" since she used any illegal substances. She stated it had been 4 years since she drank alcohol and 2 years since she used marijuana. She also testified she was "in [her] twenties" the last time she used methamphetamine. She was 44 years old at the time of the hearing. She denied using any other illegal substances since she was a teenager.

Jacqueline did not know why the May 2025 hair follicle test came back positive for methamphetamine and stated that "maybe it just soaked in." However, she also stated that she had not been around anyone who was using methamphetamines. Jacqueline also acknowledged that at the time of the hearing there was a pending charge against her for possession of a controlled substance. The charge arose from a traffic stop in January 2025 in which officers observed a baggie with white residue located in the front driver's side door of her vehicle. In addition, at the time of the stop, Jacobi was in the vehicle with her and she was not to have unsupervised contact with Jacobi.

Jacqueline testified that she had not been consistent with drug and alcohol testing but explained that she was working out of town, which made it hard to comply. She admitted that the testing could be arranged to take place at her job site but she did not want that because it would be humiliating. Regarding housing, she testified she considered herself a transient; she was sleeping in her van, in her storage unit, and on "random people's chairs or couches." However, she also testified she was working toward obtaining housing.

Jacqueline testified that she completed a domestic violence program and that she did not want to be a victim of domestic violence. She further testified that the same week of the termination hearing, her boyfriend slapped her and hit her. Jacqueline testified that she ended the relationship after that incident.

The evidence presented at the hearing also showed that Jacqueline had been in jail at times during the case and had been charged with multiple offenses. Based on the court reports, she was arrested on March 1, 2024, and remained in jail until March 23, for criminal mischief after spray painting Matthew's vehicle, and for violating the protection order in place between her and Matthew. She was sentenced on May 17, 2024, and remained incarcerated until August 2, 2024. Jacqueline acknowledged she was in jail from May to August 2024 but testified it was for a child abuse charge (she took pills in front of Jerika in November 2023), as well as violation of a protection order and failure to appear.

On November 20, 2024, Jacqueline was sentenced to 30 days in jail for a "Steal Money or Goods less than \$500" charge from December 12, 2023. She was allowed to serve the sentence on house arrest, which she successfully completed. Jacqueline was also ordered to pay a \$200 fine for an additional "Steal Money or Goods less than \$500" charge from January 8, 2024.

When a court report was prepared on February 18, 2025, Jacqueline had three criminal cases pending. The charges included "Take Control of Merchandise" from October 2, 2024; "No Proof of Financial Responsibility, Improper Registration, and Disobey Traffic Control

Sign/Device charges” from October 1, 2024; and “No Proof of Financial Responsibility, Improper Registration, and Violate Speed limit 11-15 Over” from December 19, 2024. Jacqueline missed a court date on January 21, 2025, and the court added a “Failure to Appear” charge, resulting in an active warrant as of January 22, 2025.

On July 3, 2025, the court entered an order terminating Jacqueline’s parental rights, finding that the State proved the statutory grounds alleged in the motion for termination by clear and convincing evidence and that terminating Jacqueline’s parental rights was in Jerika, Lillian, and Novella’s best interests.

ASSIGNMENT OF ERROR

Jacqueline assigns that the juvenile court erred in finding the termination of her parental rights was in the best interests of the children.

STANDARD OF REVIEW

An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the juvenile court’s findings. *In re Interest of Leyton C. and Landyn C.*, 307 Neb. 529, 949 N.W.2d 773 (2020). When the evidence is in conflict, however, an appellate court may give weight to the fact that the lower court observed the witnesses and accepted one version of the facts over the other. *Id.*

ANALYSIS

Jacqueline assigns that the juvenile court erred in finding that the termination of her parental rights was in the children’s best interests.

To terminate parental rights, it is the State’s burden to show by clear and convincing evidence both that one of the statutory bases enumerated in § 43-292 exists and that termination is in the child’s best interests. *In re Interest of Cameron L. and David L.*, 32 Neb. App. 578, 3 N.W.3d 376 (2024).

Statutory Grounds for Termination.

Jacqueline does not challenge the juvenile court’s finding that statutory grounds to terminate have been met. However, because our review is de novo, we address this requirement for termination of parental rights.

Section 43-292(7) allows for termination when the juvenile has been in an out-of-home placement for 15 or more months of the most recent 22 months. *In re Interest of Becka P. et al.*, 27 Neb. App. 489, 933 N.W.2d 873 (2019). It operates mechanically and, unlike the other subsections of the statute, does not require the State to adduce evidence of any specific fault on the part of a parent. *Id.* In a case of termination of parental rights based on § 43-292(7), the protection afforded the rights of the parent comes in the best interests’ step of the analysis. *In re Interest of Becka P. et al.*, *supra*.

In the present case, the evidence established that the children were removed from Jacqueline’s care and placed in the custody of DHHS on November 21, 2023. Since that date, they have not returned to Jacqueline’s care and have remained in out-of-home placement. When the State filed the petition to terminate Jacqueline’s parental rights on March 12, 2025, the children had continuously been in out-of-home placement for nearly 16 months. Therefore, the children

had been out of the home for more than 15 of the most recent 22 months; the statutory requirement for termination under § 43-292(7) has been met.

Having determined that statutory grounds existed for termination of Jacqueline's parental rights under § 43-292(7), we need not further address the sufficiency of the evidence to support termination under any other statutory ground. See *In re Interest of Becka P. et al.*, *supra* (if appellate court determines lower court correctly found that termination of parental rights is appropriate under one statutory ground set forth in § 43-292, appellate court need not further address sufficiency of evidence to support termination under any other statutory ground).

Best Interests.

As previously stated, Jacqueline challenges the juvenile court's finding that the termination of her parental rights was in the children's best interests. In addition to proving at least one statutory ground, the State must show that termination is in the best interests of the children. See *In re Interest of Jahon S.*, 291 Neb. 97, 864 N.W.2d 228 (2015). A parent's right to raise his or her child is constitutionally protected; so before a court may terminate parental rights, the State must also show that the parent is unfit. *Id.* There is a rebuttable presumption that the best interests of a child are served by having a relationship with his or her parent. *Id.* Based on the idea that fit parents act in the best interests of their children, this presumption is overcome only when the State has proved that the parent is unfit. *Id.*

The term "unfitness" is not expressly used in § 43-292, but the concept is generally encompassed by the fault and neglect subsections of that statute, and also through a determination of the child's best interests. See *In re Interest of Jahon S.*, *supra*. In the context of the constitutionally protected relationship between a parent and a child, parental unfitness means a personal deficiency or incapacity which has prevented, or will probably prevent, performance of a reasonable parental obligation in child rearing and which caused, or probably will result in, detriment to a child's well-being. *Id.* The best interests analysis and the parental fitness analysis are fact-intensive inquiries. *Id.* And while both are separate inquiries, each examines essentially the same underlying facts as the other. *Id.* In cases where termination of parental rights is based on § 43-292(7), appellate courts must be particularly diligent in their de novo review of whether termination of parental rights is in fact in the child's best interests. *In re Interest of Becka P. et al.*, 27 Neb. App. 489, 933 N.W.2d 873 (2019).

Based on the record before us, Jacqueline has failed to comply with several of the court orders that have been in place throughout the case. At the time of the termination hearing, Jacqueline had still not obtained housing. She continued to sleep in her vehicle, in her storage unit, and/or stay with friends or acquaintances. She testified she was working on getting stable housing, but this had been an issue throughout the case and there was no clear timeline as to when she might obtain housing.

Jacqueline testified that she was maintaining sobriety, but the juvenile court noted that it did not find her testimony credible when considering other evidence presented. She testified that she had not used methamphetamine since she was in her twenties, but a hair follicle test on May 28, 2025, tested positive for methamphetamines and amphetamines. She had also been noncompliant with random drug testing and at the time of the hearing there was a charge pending against her for possession of a controlled substance.

Jacqueline also continued to struggle with her own personal safety, as she testified that a few days prior to the hearing her boyfriend slapped her and hit her. The court noted that it observed bruising, redness, and scratches on the left side of Jacqueline's face at the hearing. Although Jacqueline testified that she ended the relationship, the incident showed she continued to find herself in situations that placed her personal safety at risk.

Jacqueline had also been in jail at times during the case and had been charged with multiple offenses. She was in jail from March 1 to March 23, 2024, and from May 17 to August 2, 2024. The charges against her included criminal mischief, violation of a protection order, child abuse, failure to appear, as well as other charges.

Jacqueline's parenting time continued to be fully supervised and neither case manager ever recommended anything different. Ruwe testified he did not foresee being able to reunify the children and Jacqueline anytime soon. He believed it was in the children's best interests to terminate Jacqueline's parental rights.

As the juvenile court found, Jacqueline had made some progress at certain times, but she had failed to put herself in a position where she could meet her children's basic needs for any meaningful period of time. The court noted that it was obvious that Jacqueline loved her children, but that she had not taken the necessary steps to become the stable, sober parent that her children needed and deserved.

The evidence established that Jacqueline was unable and unwilling to put herself in a position to correct the issues that led to the children's adjudication. When a parent is unable or unwilling to rehabilitate himself or herself within a reasonable period of time, the child's best interests require termination of parental rights. *In re Interest of Leyton C. and Landyn C.*, 307 Neb. 529, 949 N.W.2d 773 (2020). Children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity. *In re Interest of Jahon S.*, 291 Neb. 97, 864 N.W.2d 228 (2015). Based on the record before us, we find that termination of Jacqueline's parental rights is in the children's best interests.

CONCLUSION

We conclude the State proved by clear and convincing evidence that grounds to terminate Jacqueline's parental rights to her children existed under § 43-292(7) and that terminating her parental rights was in the children's best interests. The juvenile court's order is affirmed.

AFFIRMED.