

IN THE NEBRASKA COURT OF APPEALS

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

IN RE INTEREST OF AURORA B.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

IN RE INTEREST OF AURORA B., A CHILD UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

HAROLD B., APPELLANT AND CROSS-APPELLEE, AND ALZERA L., APPELLEE AND
CROSS-APPELLANT.

Filed September 29, 2026. No. A-25-802.

Appeal from the County Court for Dodge County: THOMAS J. KLEIN, Judge. Affirmed.

Steven J. Twohig, of Twohig Law, L.L.C., for appellant.

Pamela Lynn Hopkins, Dodge County Attorney, and James McCave for State of Nebraska,
and Reha Dallon, of Hatch & Dallon, L.L.C., guardian ad litem.

Jessica L. Gilgor, of Battle Born Law, L.L.C., for appellee Alzera L.

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

PIRTLE, Judge.

I. INTRODUCTION

Harold B. appeals, and Alzera L. cross-appeals, the order of the Dodge County Court, sitting as a juvenile court, terminating their parental rights to their child. For the reasons set forth herein, we affirm.

II. BACKGROUND

1. FACTUAL BACKGROUND

Alzera and Harold are the biological parents of Aurora B., born in February 2023. On May 28, 2023, members of the Dodge County sheriff's office were dispatched to a domestic disturbance between Alzera and Harold. Deputies found Aurora in a wagon where a silicone puck, which later tested positive for "THC," and a knife blade were both within her reach. On May 30, the State filed a motion for ex parte temporary custody, alleging the family was homeless, residing in a treehouse without electricity or running water, and Alzera and Harold were currently in police custody and unable to care for Aurora. This motion was granted, and Aurora was removed from Alzera and Harold's custody and the Department of Health and Human Services (DHHS) was given temporary custody.

On June 28, 2023, the State filed a petition alleging Aurora came within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Cum. Supp. 2024). The petition alleged that the child lacked proper parental care by reason of the fault or habits of Alzera and Harold or said child was in a situation dangerous to life or limb or injurious to her health and morals, in that: Alzera and Harold had unstable and unsuitable housing; the child was an infant, approximately four months old; Alzera and Harold were residing with the child in a treehouse without air-conditioning, sewer, or running water; Alzera confirmed the lack of running water and electricity impeded her ability to feed her child; Alzera and Harold had recently moved to Nebraska from Montana, where previous child abuse and neglect investigations and concerns were reported; Alzera and Harold were arrested on May 28, 2023, for possession of controlled substances and child abuse; Alzera and Harold failed to provide a safe, stable, and appropriate home; and all of these allegations placed Aurora at risk of harm.

On July 26, 2023, Aurora was adjudicated as a child within the meaning of § 43-247(3)(a) through no fault of Alzera, based on Alzera's plea of admission to an amended supplemental petition. On August 21, Aurora was adjudicated as a child within the meaning of § 43-247(3)(a) through no fault of Harold, based on Harold's plea of admission to an amended supplemental petition. Following the adjudications, the court ordered Aurora to remain in DHHS custody, finding it was in her best interests that her current placement remain in effect.

Alzera and Harold were ordered to comply with DHHS case plans. Alzera's case plan required her to participate in supervised visitation, parenting classes, and to obtain an independent living coach, a community support specialist, and parent peer support. Her case plan goals included maintaining a stable and safe living environment and ensuring that Aurora's basic needs were properly provided. The court ordered Alzera to comply with treatment recommendations and complete a co-occurring evaluation. Harold's case plan included maintaining sobriety, finding and keeping suitable employment, and finding appropriate housing. The court ordered Harold to complete a co-occurring evaluation, enroll in individual counseling, and complete a parenting class.

Shortly after Aurora was adjudicated, Alzera obtained a protection order against Harold and found suitable housing in Nebraska. In December 2023, Alzera dismissed the protection order against Harold and indicated she wanted to work jointly toward reunification with Aurora. Harold left his housing and moved in with Alzera; Harold and Alzera began couples therapy and started

joint supervised visitation. After Harold and Alzera began joint visits, their attendance became less consistent. In early 2024, Harold and Alzera informed DHHS of their plan to move back to Montana.

In May 2024, Alzera and Harold moved back to Montana. Shortly after arriving in Montana, law enforcement responded to a domestic disturbance between Alzera and Harold. This incident led Alzera to leave Harold and move to Washington by herself. In June, Alzera was involuntarily hospitalized in Washington for mental health issues; she was homeless, tested positive for “THC,” and was deemed a danger to herself and others. Alzera was diagnosed and treated for schizophrenia. After moving to Washington, Alzera had limited contact with DHHS and primarily engaged in virtual visits with Aurora.

After Harold moved to Montana, he had no contact with DHHS or Aurora from May to November 2024. In November, Harold started virtual visits with Aurora. Harold returned to Nebraska in March 2025. Harold participated in in-person visitation from March to May but failed to attend after May 16.

On October 3, 2024, the State filed a supplemental petition for termination of parental rights as to Harold, alleging that Aurora came within the meaning of Neb. Rev. Stat. § 43-292(2), (3), (4), (6), and (7) (Reissue 2016). The State also filed a supplemental petition for termination of parental rights as to Alzera, alleging that Aurora came within the meaning of § 43-292(2), (3), (5), (6), and (7). Both motions alleged it was in the best interests of Aurora to terminate the parental rights of Alzera and Harold.

2. TERMINATION HEARING

A termination hearing was held in June 2025. Amy Moore became Harold and Alzera’s DHHS case manager in May 2024. Moore testified that Aurora had been in DHHS’ care since she was removed in May 2023. Moore testified that Alzera lacked parenting skills, specifically appropriate supervision and basic needs like housing, clothing, food, and medical appointments. Since leaving Nebraska, Alzera’s housing had been inconsistent and DHHS was unable to do any walk-throughs of her housing because she was living out of state. Alzera reported to Moore that she had recently lost housing in Washington and was living with a friend.

Moore testified that when Alzera left Nebraska, DHHS was trying to facilitate a court-ordered psychiatric evaluation, which Alzera never completed. In Washington, Alzera participated in individual therapy, obtained a life/parenting coach, and received medication management. However, DHHS still had concerns that Alzera did not fully comprehend Aurora’s abilities at her current age and did not have the ability to provide appropriate care for her. Moore testified that Alzera’s progress was not sufficient for rehabilitation because she had been unable to demonstrate any of the skills she had learned.

Moore testified that learning parenting skills is easier in person compared to virtual visitation. Alzera’s move to Montana and then to Washington drastically decreased the success of the case because it limited DHHS’ services and Alzera’s in-person interactions with Aurora. When a parent moves out of state, it creates a barrier to the available services DHHS can provide. Moore testified that Alzera and Harold were aware of the limitations moving out of state would create. Alzera did return to Nebraska four times since June 2024 for in-person visitation.

Moore testified that since she took over the case in May 2024, she has been unable to verify housing for Harold. Moore stated that Harold reported he was currently residing with a friend in Nebraska, but he was unable to provide an address, lease, or informal agreement. Additionally, since she received the case, Harold's employment has been inconsistent. Harold had only provided DHHS with oral communication about current employment, but no tax documents, W-2s, pay stubs, schedules, or employment contracts.

DHHS had a multitude of concerns for Harold regarding his ability to reunify with Aurora at the time of the termination hearing, including a lack of stable and suitable housing, finances, possible ongoing drug use, and a lack of understanding of basic parenting needs. During Harold's in-person visitations, he frequently demonstrated a lack of parenting skills, including falling asleep during visitation and needing to be reminded to change Aurora's diaper. In May 2025, Harold received a court order stating he had to complete a drug test before his scheduled visitations. Harold completed two drug tests, with his most recent one positive for "THC," before he stopped attending visits. Moore testified that DHHS had no confirmation of any progress Harold had made in connection with the case and he had not successfully completed any of his goals.

Moore testified that it was in the best interests of Aurora to terminate Harold and Alzera's parental rights because neither parent had successfully completed their goals. She stated that if DHHS continued to prolong the case, it would keep Aurora in the foster care system for an undetermined amount of time, which would be against her best interests.

Cindy Cusick had been Alzera's therapist from November 2023 to May 2024; additionally, Cusick facilitated couples therapy for Alzera and Harold starting in December 2023. Cusick testified that Alzera had been doing well in therapy until March 2024. When Alzera ended counseling with Cusick, she had not successfully achieved her goals for housing, nor was she maintaining good mental health. Cusick stated she wanted Harold and Alzera to participate in a co-occurring evaluation because they each had a history with illegal substances. Cusick testified that her recommendation to Alzera was to remain in Nebraska until the case was over and not move out of Nebraska because it was not in the best interest of Alzera or her child.

Crystal Hussey was the family support worker at Pathfinder Support Services who supervised Alzera's and Harold's visitations. Hussey testified that she supervised Alzera's virtual visits from November 2024 to May 2025 and Harold's virtual visits from October 2024 until March 2025 when he switched to in-person.

Hussey testified that Harold had not been consistent with his virtual visits as he did not always confirm or attend scheduled appointments. She testified that during Harold's virtual visits there were concerns about his behavior toward her and Aurora; specifically, Harold was aggressive and combative with Hussey and unengaged with Aurora. Harold's demeanor toward Hussey improved when he switched to in-person visits.

Hussey testified that Aurora did not demonstrate a bond with Harold during his virtual visits between October 2024 and March 2025. Harold demonstrated an inadequate ability to engage with a young child over a screen and had inappropriate conversations with Aurora. Hussey testified that she developed concern over whether Harold had the mental or intellectual capacity to parent, as well as whether he had an appropriate temperament to parent. Additionally, Hussey was concerned that Harold had not yet acquired adequate parenting skills.

Hussey testified that she had concerns over whether Alzera lacked the mental or intellectual capacity to parent and about the stability of Alzera's mental health. Alzera did not understand Aurora's current developmental level, which caused Alzera's parenting to be inappropriate at times. Hussey testified that Aurora's engagement with Alzera during virtual visits was good. However, virtual visitation limits a parent's ability to demonstrate parenting skills.

Megan H. had been Aurora's foster parent since May 2023 and discussed Aurora's placement in her home. Aurora had begun crawling, taken her first steps, and started talking at Megan's home. Megan testified that she had some issues interacting with Alzera due to Alzera's tendency to say irrational things. Alzera's communication with Megan became better after she left Harold. Megan testified that she had very limited communication with Harold but never had any issues with him.

Megan testified that when Harold and Alzera moved out of Nebraska and began virtual visitation, Aurora experienced sleep disturbances. Megan testified that Aurora struggled with the lack of consistency with the different types of visitations and inconsistent schedule.

Following the termination hearing, the court entered an order terminating Alzera and Harold's parental rights to Aurora. The court found that Aurora was within the meaning of § 43-292(2), (3), (5), (6), and (7) by clear and convincing evidence and that it was in her best interests to terminate Alzera's parental rights. The court also found that Aurora was within the meaning of § 43-292(2), (3), (6), and (7) by clear and convincing evidence and that it was in her best interests to terminate Harold's parental rights.

III. ASSIGNMENTS OF ERROR

On appeal, Harold assigns, consolidated and restated, that the juvenile court erred in finding that there was clear and convincing evidence that his parental rights should be terminated pursuant to § 43-292(2), (3), (6), and (7).

On cross-appeal, Alzera assigns, consolidated and restated, that the juvenile court erred in (1) "accepting the following exhibits over the objection by Counsel for the Mother" and (2) finding it was in the child's best interest that her parental rights should be terminated.

IV. STANDARD OF REVIEW

An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the findings made by the juvenile court. *In re Interest of Denzel D.*, 314 Neb. 631, 992 N.W.2d 471 (2023). However, when the evidence is in conflict, an appellate court may consider and give weight to the fact that the juvenile court observed the witnesses and accepted one version of the facts over the other. *Id.*

V. ANALYSIS

1. ADMISSION OF EXHIBITS

We first address one of Alzera's assignments on cross-appeal. Alzera asks this court to find that the juvenile court erred in accepting certain exhibits over objections. However, Alzera does not identify in the assignment of error what exhibits the juvenile court erred in accepting, nor is this assignment specifically argued. Therefore, we do not address it.

2. TERMINATION OF PARENTAL RIGHTS

Harold's appeal and Alzera's cross-appeal both assign errors related to what the State must prove under § 43-292 to terminate parental rights. Because Harold's appeal and Alzera's assigned errors involve an application of the same juvenile law, we combine the discussion of the relevant law and apply that law to Harold's and Alzera's unique factual circumstances.

(a) Statutory Grounds for Termination

Harold assigns the juvenile court erred in finding that there was clear and convincing evidence that his parental rights should be terminated pursuant to § 43-292(2), (3), (6), and (7). Alzera does not specifically assign that the juvenile court erred in finding that there was a statutory ground for termination under § 43-292. However, because our review is de novo, we address this requirement for termination of parental rights for Alzera and Harold.

For a juvenile court to terminate parental rights under § 43-292, it must find that one or more of the statutory grounds listed in this section have been satisfied and that such termination is in the child's best interests. *In re Interest of Becka P. et al.*, 27 Neb. App. 489, 933 N.W.2d 873 (2019). The State must prove these facts by clear and convincing evidence. *Id.*

We first address whether the court erred in terminating Alzera's and Harold's parental rights pursuant to § 43-292(7). Subsection (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. 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. *In re Interest of Becka P. et al.*, *supra*. In a case of termination of parental rights based on § 43-292(7), the protection afforded the rights of the parents comes in the best interests step of the analysis. *In re Interest of Becka P. et al.*, *supra*.

Aurora was removed from Alzera and Harold's care on May 30, 2023. Since she was removed, she has never returned to Alzera or Harold's care and has remained in out-of-home placement. When the State filed its motion for termination of parental rights on October 3, 2024, Aurora had been placed outside the home for 16 continuous months. Therefore, the child 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 for Harold and Alzera.

If an appellate court determines that the lower court correctly found that termination of parental rights is appropriate under one of the statutory grounds set forth in § 43-292, the appellate court need not further address the sufficiency of the evidence to support termination under any other statutory ground. *In re Interest of Becka P. et al.*, *supra*. Because we find that the State presented clear and convincing evidence that a statutory ground to terminate existed under § 43-292(7), we need not address the other statutory grounds.

(b) Best Interests

Alzera assigns that the juvenile court erred in finding that termination of her parental rights was in Aurora's best interests. Harold does not assign that the juvenile court erred in finding it was in the child's best interests to terminate his parental rights. However, because our review is de novo, we address this requirement for termination of parental rights for both Alzera and Harold.

Under § 43-292, in addition to providing a statutory ground, the State must show that termination of parental rights is in the best interests of the child. *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.*

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.*

(i) Best Interests--Harold

Aurora was removed from Harold's care because of a lack of suitable housing and concerns of domestic violence and drug usage. At the time of the termination hearing, Harold had been unable to verify his housing with DHHS. Throughout the case, Harold has continued to move between Nebraska and Montana. Due to his moving in and out of state, Harold's contact with DHHS and Aurora has been sporadic, to the detriment of his parental relationship with Aurora.

Harold has been unable to maintain consistent employment, which was a goal laid out for him by DHHS. Additionally, Harold's most recent drug test was positive for "THC," and he stopped attending visitation when drug testing was court-ordered before each visit. Furthermore, Hussey and Moore testified that Harold had frequently demonstrated a lack of understanding of basic parenting needs, and he had not made any continued improvement in parenting skills. Hussey also testified that Aurora lacked a bond with Harold.

Harold has not shown he can maintain suitable housing or employment, and he has not shown improvement in parenting skills. He has been inconsistent in attending visitation with Aurora and does not always act appropriately when together. Moore testified that it would be in the best interests of Aurora to terminate Harold's parental rights because he had not successfully completed any of his goals set by DHHS. See *In re Interest of Joel T. et al.*, 321 Neb. 106, 32 N.W.3d 640 (2026) (appellant's failure to complete any goals in case plan supports termination of parental rights).

Where a parent is unable or unwilling to rehabilitate himself or herself within a reasonable time, the best interests of the child require termination of the parental rights. *In re Interest of Joel T. et al.*, *supra*. Further, Nebraska courts have recognized that 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). Harold has failed to put himself in a position to properly parent Aurora. Despite knowing that moving out of state would vastly limit the services DHHS could provide and decrease success of the case, Harold still chose to move to Montana. Even though Harold has since moved back to Nebraska, he has not shown improvement in parenting skills or his relationship with Aurora, and has been unable to remain sober.

Based on the evidence, Harold will not become a fit and capable parent any time soon. Aurora needs and deserves stability and security in her life. She should not be suspended in foster

care when her father is unable or unwilling to rehabilitate himself. Accordingly, based on our review of the evidence, we agree with the juvenile court that Harold was unfit and that terminating his parental rights was in Aurora's best interests.

(ii) Best Interests--Alzera

On cross-appeal, Alzera contends that the juvenile court erred in finding that termination of her parental rights was in the child's best interests because there was no evidence showing parental unfitness.

Based on the record before us, Alzera has made little to no progress on her DHHS set goals. Alzera has continued to struggle with adequate housing and at the time of the termination hearing recently lost her housing in Washington. She continued to live out of state with no stated intention of returning to Nebraska despite Cusick and DHHS informing her it would not be in Aurora's best interest to move out of state. Alzera's mental health has also continued to be an issue throughout the case with Hussey expressing concerns over its stability. While Alzera initially made progress in therapy, her progress backtracked and she eventually stopped therapy altogether in Nebraska. After moving to Washington, she was involuntarily hospitalized for being a danger to herself and others before being diagnosed and treated for schizophrenia.

DHHS expressed concerns over Alzera's ability to comprehend Aurora's developmental age and to provide appropriate care. Moore testified that Alzera's progress had not been sufficient for rehabilitation since she had been unable to demonstrate any skills she had learned. Hussey testified to her concerns about Alzera's lack of mental or intellectual capacity to parent. Additionally, Alzera remaining out of state, primarily with virtual visitation, limited her ability to demonstrate parenting skills. Moore testified that it would be in the best interests of Aurora to terminate Alzera's parental rights because she had not successfully completed a number of her goals through DHHS.

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 Joel T. et al.*, *supra*. This case was pending for 16 months, and during that time, Alzera failed to rehabilitate herself. She has not shown improvement in parenting skills or the ability to maintain stable housing. The evidence demonstrates that Alzera will not become a fit and capable parent any time soon. 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). Accordingly, based on our review of the evidence, we agree with the juvenile court that Alzera was unfit and that terminating her parental rights was in Aurora's best interests.

VI. CONCLUSION

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

AFFIRMED.