

IN THE NEBRASKA COURT OF APPEALS

In re Interest of Jaiden W., et al,)
children under 18 years of age.)
State of Nebraska,)
Appellee,)
v.)
Raelonda W.,)
Appellant.)

Nos. A-12-0128,
A-12-0129, A-12-0130.

MEMORANDUM OPINION
AND
JUDGMENT ON APPEAL

FILED

SEP 25 2012

INBODY, Chief Judge, and MOORE and RIEDMANN, Judges
RIEDMANN, Judge.

CLERK
NEBRASKA SUPREME COURT
COURT OF APPEALS

INTRODUCTION

Raelonda W. appeals from the decision of the separate
juvenile court for Lancaster County terminating her parental
rights to her minor children, Jaiden W. (A-12-0128),
Jai'Sharriea W. (A-12-0128), Tramel P. (A-12-0128), Tra
Meliyoh P. (A-12-0129), and Jai'Vion W. (A-12-0130). We affirm.

BACKGROUND

This appeal involves Raelonda's five children: Jaiden, born
August 28, 2003; Jai'Sharriea, born October 5, 2005; Tramel,
born December 7, 2007; Tra Meliyoh, born July 7, 2009; and
Jai'Vion, born December 31, 2010. The children's fathers are not
involved in this appeal.



On January 22, 2009, the State filed a petition alleging that Jaiden, Jai'Sharriea, and Tramel were within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) by reason of the faults or habits of Raelonda. The petition specifically alleged that Raelonda had left the children unattended or left the children in the care of a person not well-known to the family who left the children unattended, placing the children at risk of harm. The juvenile court adjudicated the children to be within the meaning of § 43-247(3)(a).

On November 19, 2009, and January 3, 2011, the State filed petitions alleging that Tra Meliyoh and Jai'Vion were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Raelonda. The petitions specifically alleged that Raelonda had failed to correct the conditions that led to the adjudication of the older children, placing Tra Meliyoh and Jai'Vion at risk of harm. The juvenile court adjudicated Tra Meliyoh and Jai'Vion to be within the meaning of § 43-247(3)(a).

The four oldest children were put in out-of-home placement on November 18, 2009, where they have remained since that date. Jai'Vion has been in out-of-home placement since birth.

Dispositional/Review hearings were held on November 5, 2009; May 4, July 7, and September 28, 2010; and January 11, April 5, May 18, and December 9, 2011. The case plans ordered, inter alia, that Raelonda attend individual therapy, that

Raelonda cooperate with supervised visitation, that Raelonda cooperate with scheduling and attendance of sessions with the family support worker, that Raelonda sign releases, that Raelonda address any developmental concerns for her children, that Raelonda have monthly contact with her case manager, that Raelonda notify her case manager within 24 hours of any change of address or phone number, that Raelonda attend team meetings, that Raelonda arrange and attend necessary medical appointments for her children, and that Raelonda use appropriate caregivers for her children and notify her case manager of any changes of caregivers. Over objections by Raelonda's counsel, court reports were received at the dispositional/review hearings and later at the termination hearing, which are the subject of this appeal.

On October 10, 2011, the State filed motions for termination of Raelonda's parental rights to her children. The State alleged that: (1) Raelonda had substantially and continuously or repeatedly neglected and refused to give her children necessary parental care and protection, (2) Raelonda, being financially able, had failed to provide her children with necessary subsistence, education, or other care when legal custody was lodged with others and such payment ordered by the court; (3) the children had previously been adjudicated under § 43-247(3)(a) and reasonable efforts of the court had failed to correct the conditions leading to their adjudication, and

(4) termination was in the children's best interests. Additionally, with regard to the four oldest children, the State alleged that they had been in out-of-home placement for fifteen or more months of the most recent twenty-two months.

The termination hearing was held on December 19, 20, and 21, 2011, and January 23, 2012. Testimony was given regarding the reasons why the children were removed from the home, and Raelonda's progress on the case plan. Raelonda's counsel made numerous objections during the trial, which we summarize in more detail in the analysis portion of this opinion.

Tyler Cooper, a police officer, testified that he was called to Raelonda's residence at about 1 a.m. on November 16, 2008, after a neighbor reported that Raelonda's children were unattended. Upon arrival at Raelonda's residence, five year old Jaiden answered the door. According to Cooper, two younger children were also present, but no adult was there. Cooper observed that the youngest child was not yet one year old. Cooper testified that he stayed at the residence, and about an hour and a half later, Raelonda returned. She initially told Cooper that she had only been gone for 10 minutes, but after Cooper advised her that he had been there over an hour, Raelonda stated that a babysitter was supposed to be there. According to Cooper, he tried to obtain contact information for the babysitter, but Raelonda refused. Cooper took Raelonda into

custody on some preexisting warrants, and Raelonda's mother picked up the children. Cooper noticed that there was no telephone in the apartment, but that the apartment was fairly clean and tidy.

Several former case workers and case managers of the Department of Health and Human Services (the Department) testified as to their involvement with Raelonda and her children, including Trevor Baer, Douglas Conway, Jenna Hull, Kristin Sams and Britton Gabel.

Baer testified that he met Raelonda in December 2008 after Lincoln Police had found the children home alone. According to Baer, Raelonda told him that she had had a babysitter supervising the children. She first told Baer that the babysitter's name was Aninsha, but later said the babysitter's name was Tiara. Baer testified that Raelonda claimed she did not know the babysitter's last name or phone number because she had met her recently at the library. During the course of his investigation, Baer concluded that the children had been maltreated.

At trial, Raelonda denied ever leaving her children alone. She testified that on the night that led to adjudication proceedings, she left them with a babysitter named Neisha. She denied meeting the babysitter at the library and testified that she had known her since middle school. Later during her

testimony, Raelonda stated that the babysitter's name was Tiara Thompson and denied testifying that her name was Neisha.

Conway testified he was assigned to Raelonda's family from April to July 2009. He found Raelonda was only minimally cooperative because she did not respond to his calls or a certified letter, would not answer questions, and would not sign releases. Conway testified that Raelonda did not fully comply with the safety plan that was in place when Conway took over the case.

Sams testified that she was Raelonda's caseworker from July to October 2009, but that she only had contact with Raelonda two or three times. According to Sams, she had difficulty scheduling visits with Raelonda and her children because Raelonda would continually reschedule. Sams testified that part of the safety plan was that someone from the Department would be able to drop in at Raelonda's residence, but only five of 12 attempted drop-ins were successful due to Raelonda's repeated rescheduling. As a result, Sams stated she was unable to see the children to assess their safety and wellbeing. Raelonda admitted that she did not cooperate with drop ins "to a certain extent," saying that it did not make sense to schedule drop ins when the children were not at home.

At the end of October 2009, Sams and her supervisor began discussing removing the children from Raelonda's care because of

the inability to assess the children's wellbeing. Sams' supervisor eventually requested the children's removal. Sams did not have any contact with Raelonda after October 2009.

Gabel was a case manager in Raelonda's case in November and December 2009. When Gabel obtained the case, the Department was contemplating removing Jaiden, Jai'Sharriea, Tramel, and Tra Meliyoh because Raelonda was not cooperating with drop-ins, therapeutic services and court-ordered services. Gabel testified at the review for placement hearing at which the Department moved for temporary custody. Gabel testified that he could not ensure the safety of the children at that time because the Department had not been able to observe the children.

Following Gabel's termination from the case, Hull became the case manager until December 2010. Hull denied having any involvement with Jai'Vion during her work with the family. Hull testified that Raelonda was compliant with some court orders, but not all of them. Hull admitted that Raelonda attended therapy consistently, but that she observed inconsistency in Raelonda's cooperation with family support services. Hull admitted that Raelonda signed releases when requested.

Hull testified that Raelonda was inconsistent with employment and housing and in Hull's opinion, Raelonda did not obtain appropriate housing while Hall was the case manager.

As to visitation, Hull testified that Raelonda was inconsistent, partly due to intermittent incarceration of Raelonda. In October 2010, Raelonda missed 10 of 37 scheduled visits. Hull described the visitation as "fairly consistent with some sporadic inconsistencies." Hull testified that Raelonda was working with a family support worker to obtain parenting education, but to Hull's knowledge, did not complete any parenting education course or similar family support service.

Hull also supervised a couple of Raelonda's visits in April 2010. She recalled that Raelonda fell asleep during one of the visits and that Raelonda spoke to the children in a way that seemed to Hull to be rude and inappropriate. Hull testified that these issues were addressed at team meetings.

Numerous therapists testified, including Ryan Tenopir, Michelle Miller, Jessica Weddington and Kera Frederick (a psychotherapist). Tenopir, whose client was Jaiden, and Frederick, whose client was Jai'Sharriea, both testified that children need a permanent, stable home environment and that it would be in their clients' best interest to terminate Raelonda's parental rights.

According to Tenopir, Jaiden had been his client since September 2009, during which time Raelonda had been having monitored and supervised visits with Jaiden. Tenopir had had contact with the foster family, the case manager and Raelonda at

"team meetings." Tenopir had also conducted an initial assessment of Raelonda, but he had not had any sessions with Jaiden and Raelonda together.

Tenopir testified that Jaiden told him the November 2009 incident was not the only time the children had been left alone. During Tenopir's initial assessment with Raelonda, she maintained that she had left the children with a babysitter and would not acknowledge any wrongdoing on her part.

Based on the information he had received from the case manager and Jaiden's foster family, and on Jaiden's own assertions that he did not want to continue visitation, Tenopir opined that visitation with Raelonda should be suspended. This was based in part upon Raelonda telling Jaiden that a possible change in Jai'Sharriea's placement from the foster family she had been sharing with Jaiden to a different foster family was because Jaiden did not "stick up" for his sister. Additionally, Jaiden allegedly told Tenopir that during visitations, Raelonda only paid attention to his youngest brother while Jaiden was left to play by himself.

Jaiden reported to Tenopir that he liked his foster family, enjoyed activities, felt like he belonged there, and wanted to stay at his current foster placement forever.

Tenopir admitted that on March 28, 2011, he wrote a letter for a court report stating that Jaiden wanted to move back home

with his mother and that Jaiden thought visits were going well; however, Tenopir testified that circumstances had changed since he wrote the letter.

Miller testified that she had nine sessions with Jai'Sharriea from October 2010 to March 2011, when Jai'Sharriea was about 5 years old. Jai'Sharriea was in foster care during this time. Miller testified that she was asked to assess the possibility of neglect and sexual abuse and to address Jai'Sharriea's behavioral problems, but due to Jai'Sharriea's behavior, Miller was unable to determine whether she had been neglected or sexually abused.

Miller testified that she diagnosed Jai'Sharriea with oppositional defiant disorder, which is caused by a lack of bonding with caregivers, and adjustment disorder with disturbance of conduct and mood.

Miller transitioned Jai'Sharriea to family therapy sessions because individual therapy did not appear to be appropriate for her. Miller testified that she saw Raelonda on four occasions during family sessions, starting in January 2011. At least two of the sessions included Raelonda and all five children. Miller was critical of Raelonda's parenting skills and testified that Raelonda focused on Jai'Vion and did not play with the other children, interacting with them only when it was time to clean up. Miller testified that she was concerned with the lack of

affection, interest, and communication Raelonda displayed toward her children. At the last visit, however, when only Jaiden and Jai'Sharriea were present, Miller testified that she was impressed with Raelonda because she tried very hard to engage the children in conversation, which had been one of Miller's specific recommendations. Miller has not had any contact with Raelonda since March 2011.

Weddington testified that she was Raelonda's therapist from January 2010 to July 2011, seeing her weekly. Weddington testified that in the course of her work, she received a psychological report which diagnosed Raelonda with a mixed personality disorder and noted borderline intellectual functioning. Weddington testified that at team meetings she observed ongoing conflict between Raelonda and the case manager, which went on for some time before a new case manager was appointed.

As with the other witnesses, Weddington testified that Raelonda never admitted to leaving the children home alone. Sessions with Weddington ceased because Weddington received outside reports that Raelonda was making progress and communicating with service providers. In Weddington's opinion, Raelonda had reached the maximum benefit of individual therapy.

From May 2011 to August 2011, Weddington was involved in eight to 10 sessions of family therapy with Raelonda, Jaiden,

and Jai'Sharriea. Weddington testified that during the sessions, she did not observe anything to indicate that Jaiden was afraid of visits with Raelonda. Weddington testified that she believed that the sessions were productive overall; however, Weddington testified that any progress Raelonda made was likely to be transient and that Raelonda never reached a point where Weddington could recommend returning the children to her care.

Weddington discontinued the family therapy sessions because she had received reports that Raelonda's visitation with the children had been reduced due to lack of cooperation. Weddington concluded that continuing family therapy, which included attempts to form bonds among family members, would not be in the children's best interests when the family was not progressing.

Weddington testified that she was unable to give an opinion as to whether termination of Raelonda's parental rights was in the best interest of the children given the amount of time that had elapsed since Weddington had any contact with the family.

Frederick, a psychotherapist, testified that Jai'Sharriea became her client in September 2011. She admitted that she had never met Raelonda, but that she had received information about her from a case manager. Frederick testified that Jai'Sharriea was having issues with behavioral outbursts, difficulty in following rules, and accepting consequences. During the course of the nine weekly sessions Frederick had with Jai'Sharriea,

Jai'Sharriea had regressed and had become less willing to engage in therapy.

Over objection, Frederick testified that Jai'Sharriea's case worker and foster parents had reported increased behavioral disturbances following visitation with Raelonda. Over objection, Frederick opined that these behavioral disturbances were a reaction to statements Raelonda made during visitation, pitting the foster family and the Department against Raelonda.

Multiple individuals testified who supervised Raelonda's visits with her children. They included Renae Odell, Samantha Gowen, Destiny Fowlkes, Sabina Fehic-Palic and Jody Magnuson.

Odell testified that her contact with Raelonda was brief because of an incident in which Raelonda became upset and pushed Odell. On the few occasions that Odell supervised visits, Odell testified that Raelonda was not receptive to the family support she provided. She testified that Raelonda focused most of her attention on Tramel and Tra Meliyoh and did not pay much attention to Jaiden and Jai'Sharriea.

Gowen testified that she observed both positive and negative aspects while she supervised Raelonda's visits. She admitted that for the most part, Raelonda interacted appropriately with the children; however, there were instances when Raelonda would raise her voice, slap the children, or threaten spankings. In response to this testimony, Raelonda

explained that she was only using a "mother's tone" and speaking in a more authoritative way to correct the children when they did not heed her initial admonitions.

Gowen testified that on occasion, Raelonda would allow "unapproved people", such as the children's fathers, to visit the children. Gowen generally observed a loving relationship between Raelonda and her children. Gowen observed that on a few occasions the children were upset when the visits ended and always wanted a hug from Raelonda before they left. Gowen testified that the children were always eager to see Raelonda, who would be at the door to greet them. Gowen's involvement ended in August 2011.

Fowlkes testified that she had been involved in Raelonda's case consistently during the 6 months preceding trial, starting in June 2011, and had supervised her visits with her children for almost all of the Sunday visits. When Fowlkes started working with Raelonda, visitation was scheduled on Tuesdays, Thursdays, and Sundays for two hours on each day. A few months prior to trial, visits were reduced to four hours on Sundays and then later two hours on Sundays.

Fowlkes testified that for a two-week period, visits were monitored rather than supervised, meaning that the caseworker would leave Raelonda alone with the children for a period of time. Monitored visitation was suspended, however, and

supervised visitation reinstated because Raelonda did not effectively communicate with Fowlkes about availability. Fowlkes testified that during monitored visits, Raelonda could not verify who the children had been with while in her care. Raelonda responded to testimony that during her other monitored visit, she was running late and caused the visitation worker to run late as well. Raelonda stated that she was in contact with the visitation worker during the visit and did not think she did anything inappropriate.

Fowlkes testified that Raelonda was generally appropriate with her children during visitation and was able to pay attention to each of the five children individually during the visit, except for one instance at Chucky Cheese. When Raelonda became frustrated, she would either speak to the children inappropriately, using profanity or degrading words, or use physical discipline. Raelonda denied regularly using physical discipline on her children but admitted threatening, "If you don't stop it, I will pop your butt."

Fowlkes observed Raelonda hug and kiss her children at the end of every visit, and Raelonda always helped the children get in and out of the car. Fowlkes testified that although Raelonda interacted with each child at some point during the visit, her contact with Jai'Sharriea and Tra Meliyoh would be limited to styling their hair. While Fowlkes observed Raelonda greet and

say goodbye to Jaiden, they had very little interaction during the middle of the visits and Raelonda's efforts toward Jaiden were minimal.

Fowlkes testified that she supervised a visit a few days prior to trial. Jaiden and Jai'Sharriea's foster father called Fowlkes before the visit and informed her that the two oldest children had chosen not to attend the visit. When Fowlkes told Raelonda, Raelonda was visibly upset and cried. Tramel expressed concern at seeing his mother upset.

Fehic-Palic testified that she supervised a couple of Raelonda's visitations in September and October 2011 and provided transportation for a couple of her visitations. All five children were present at the visits Fehic-Palic supervised. Fehic-Palic was concerned during one of the visits because some of the children were running in the parking lot, unsupervised, while Raelonda spoke to the foster parents. On another instance Raelonda allowed Jai'Vion to play with blocks that were a choking hazard for Jai'Vion while Raelonda was washing Jai'Sharriea's hair.

Raelonda countered Fehic-Palic's testimony regarding the parking lot incident by explaining that she was playing red light, green light with Jai'Sharriea, Tramel, and Tra Meliyoh, while Jaiden was seated and Jai'Vion was in a stroller. The children started the game standing in a line, but then Tramel

and Tra Meliyoh began running around wildly in the parking lot. Raelonda testified that she told them if they got close to the street, they would have to go back inside. The boys continued to go toward the street, and Raelonda took the children inside. Shortly thereafter, Jaiden and Jai'Sharriea's foster parents arrived. Raelonda testified that while she was talking to the foster father, Fehic-Palic was putting Tramel and Tra Meliyoh in the car, but they somehow "got loose and started running wild." Raelonda stated that she did not realize at first what had happened, but when she did, she helped Fehic-Palic put the boys in the car and reminded them that she had told them not to run in the parking lot. Raelonda denied losing control of the situation because the boys came back when she yelled for them.

Magnuson testified that she had supervised four or five of Raelonda's visits, assisted with transportation for dozens of the visits, and arranged scheduling for the majority of them. The visits she supervised were over the course of the 18 months preceding trial. Magnuson testified that she was concerned that Raelonda directed the older children to do a lot of the care for the younger children, such as taking items from them and removing them from unsafe objects.

Magnuson listed the concerns with Raelonda's visits that led to Raelonda's visits being reduced to once weekly for two hours. She stated that much of the visitation time was being

spent in the car, rather than interacting with the children, and in doing activities not directly related to the children, such as grocery shopping. Magnuson testified that there were issues with naps not taking place, meals not being provided during visits, food being sent home with the children after the visits, and unapproved visitors. In the summer of 2011, Raelonda was evicted, and visits took place at the visitation center rather than her residence. Magnuson testified that visits in the community were suspended because Raelonda would run behind schedule, which, in turn, would cause the visitation workers to run behind schedule.

Beri Edwards testified that she was assigned to Raelonda's case as a service coordinator in July 2010 and then as a family permanency specialist from January to March 2011. Edwards stated that her participation in the case ended because Raelonda had issues with her and there was a "constant battle . . . hindering the progress of what was in the best interest of her children."

The month before Edwards left the case, Raelonda refused to meet with her at all. Edwards testified that Raelonda was not regularly attending visitation or therapy, and she was not participating in any school activities for the children or following through on things the school asked her to do.

According to Edwards, Raelonda was not cooperating with any services and constantly blamed Edwards for the lack of progress

in the case. Edwards testified that if visitation did not go well, Raelonda blamed Edwards for selecting the visitation workers. According to Edwards, if Raelonda was not attending therapy on a regular basis, Raelonda blamed Edwards for asking too much of her. Edwards testified that Raelonda requested that Edwards be removed from the case, as well as Hull and several visitation workers, because they were too critical of her. Edwards testified that Raelonda had a reputation of "having issues" with all the workers on her case.

Edwards testified that the conflict between her and Raelonda began in November 2010 when she explained to Raelonda that unless she followed through with the services provided to her, her children would probably not be coming home. Edwards stated that despite the conflict, she continued to treat Raelonda in a straightforward way, like she did with her other clients. Edwards discussed the conflict with her superiors, and it was decided that Edwards would remain on Raelonda's case because Raelonda had conflict with all of her caseworkers and seemed to be trying to manipulate the situation to get another caseworker. Edwards remained on the case until March 2011.

Edwards testified that when she was working on Raelonda's case, Raelonda told her that she was employed at McDonald's. However, Edwards testified that Raelonda refused to provide her with any proof of employment despite Edwards's regular requests

for a paystub at team meetings. Raelonda testified that she worked for McDonald's from June 2010 to April 2011 and left because her hours had been reduced from 30 hours to three times per week. She then worked at Tricon but left because of an injury. Raelonda stated that she was working at Linco in Waverly at the time of trial.

Edwards testified that at team meetings there were discussions about problems with visitation. According to Edwards, Raelonda did not engage with the children, did not provide adequate meals, would arrive late or ask to leave early, would allow the children to converse with their fathers, and miss visitation altogether.

Edwards admitted that in March 2011, she reported that Raelonda was attending visits consistently, which was an improvement since the last reporting period. Edwards also admitted reporting that Raelonda showed affection toward the children and that the children were receptive to her.

Edwards testified that it was in the children's best interests that Raelonda's parental rights be terminated because Raelonda's case was not progressing forward and the children were suffering as a result and deserved permanency. In Edwards's opinion, she had provided Raelonda with all the services she needed to correct the conditions leading to adjudication.

Cydney Volker was the family permanency specialist for Raelonda's family beginning on April 18, 2011. She met Raelonda and the two oldest children for the first time at a hearing on May 18, and she met the three youngest children the following June.

Volker testified that around the time she starting working on Raelonda's case, KVC paid the rent and deposit for Raelonda's residence. Volker testified that in August or September 2011, Raelonda was evicted from that residence. According to Volker, Raelonda reported at a team meeting in September that she was staying in a five-bedroom house with her boyfriend, David, but that she was looking for her own apartment. Raelonda did not inform Volker of her new address after her eviction. Volker testified that she spoke to Raelonda two weeks prior to trial, but prior to that, she had not spoken to Raelonda since September. Volker stated that she had tried to call Raelonda, but the phone numbers Volker had for Raelonda were both disconnected. Raelonda did not give Volker her new phone number, and Volker had to obtain it elsewhere.

Volker testified that when she informed Jaiden that he did not have to attend visitation with Raelonda if he did not want to, she received a big smile and he looked relieved.

Volker testified that Raelonda was cooperative with the family support services Volker offered, including meal planning

and community resources to help her pay her rent and obtain supplies for the children. Volker denied that parenting education or parent modeling services were in place when she worked on the case, but she testified that Raelonda had received some parenting instruction before Volker was assigned to the case. Volker testified that she did not see any documentation that Raelonda had successfully completed or cooperated with parenting education services.

Volker testified that she paired Raelonda with a parent partner, someone who had successfully been through the juvenile court process. According to Volker, Raelonda had previously had a parent partner, but the partnership was discontinued because of Raelonda's lack of commitment. Raelonda was receptive to having a parent partner again. Near the end of the trial, Volker testified that Raelonda still had a parent partner, but she did not know whether Raelonda was meeting with her.

Volker testified that Raelonda's case was progressing well when she was assigned to it in April 2011. In May 2011, Raelonda was allowed monitored visits with Jaiden and Jai'Sharriea, rather than supervised visits. These did not go well and were soon discontinued, mainly due to Raelonda allowing her boyfriend, David, to spend time with the children. Over objection by Raelonda's counsel, an internal e-mail was received in evidence in which Volker explicitly stated that Raelonda's

boyfriend was not approved. David's contact with the children was a violation of the safety plan, in Volker's opinion.

Raelonda admitted that she had allowed unapproved people to be present at visits. She testified that she allowed the children's fathers to stop by and drop off items. She also admitted that she allowed her fiancé, David, at visits. Raelonda testified that David had been approved for visitation and transport by the Department.

According to Volker, she also received reports that Raelonda had taken the children to her mother's house during a monitored visit and that Jaiden had stayed there with Raelonda's mother while Raelonda and Jai'Sharriea went to the mall to do "girl things." In Volker's opinion, Raelonda's behavior was inappropriate because the expectation was that Raelonda would spend time with both of her children and not leave them in the care of other people.

Raelonda denied leaving Jaiden at her mother's house during a monitored visit while she took Jai'Sharriea to the mall. She testified that she took both children to the mall and that she heard Jaiden tell Hull that he had gone to the mall. Raelonda admitted that a friend of hers, who was not approved to be with the children, gave them a ride to the mall.

Volker opined that based on the testimony of the children's therapists, she would support suspending Raelonda's visitation

with Jaiden and Jai'Sharriea. Volker also testified that she would support suspending Raelonda's visits with her younger children. Although issues with feeding Jai'Vion appeared to have improved, Volker testified that the children still displayed behavior issues after visitation.

To Volker's knowledge, Raelonda had not arranged or attended any medical appointments for her children. Raelonda testified to the same.

Volker testified that Raelonda had been incarcerated at various points during the case and that during the trial, itself, Raelonda was arrested during a lunch break, but paid a fine in lieu of being incarcerated. Raelonda admitted that she had been incarcerated four times since November 2008 for periods up to about one week. Her offenses included neglect in 2008, driving on a suspended license in 2010, and making a false statement to a police officer in 2011. Raelonda admitted that she was convicted of making a false statement to a police officer on one other occasion.

Volker testified that at the team meeting in September, Raelonda reported that she was employed at McDonald's and that she was going to have another job at Sally's Beauty Supply, but Volker had not yet verified this information.

Volker testified that Jai'Sharriea had only attended one visit since December 11, 2011. According to Volker, Jai'Sharriea

attended a visit on January 8, 2012, and was very aggressive toward her foster parents afterward. Volker testified that Jai'Sharriea's foster home placement was changed on January 3, 2012, because her previous foster family was unable to provide the permanency she needed. She was placed back with a foster family with whom she had lived before.

According to Volker, Jaiden had not attended any visits since December 11, 2011 and he had been doing very well in his foster home and at school. The foster parents for Tramel, Tra Meliyoh, and Jai'Vion reported that the boys were very clingy after visitation and did not want their foster parents to let go of them.

From October 23, 2011, to the time of trial, Raelonda was having one two-hour supervised visit per week. Volker stated that visits were decreased because of the behaviors the children were exhibiting after visitation and because the visits were not as positive as they should be. According to Volker, the Department had requested suspension of Raelonda's visitation because it was in the children's best interests. She stated that there were continuing concerns about the children's behavior after visits, lack of interaction with the children, and inadequate feeding. There were also concerns that Raelonda spent time styling Jai'Sharriea's and Tra Meliyoh's hair rather than interacting with the children. Volker admitted that she based

her testimony regarding the children's behavior following visits, in part, on testimony she heard at trial.

Volker testified that at no time while she had been involved in Raelonda's case had Raelonda put herself in a position to have the children placed with her. Volker opined that based on her review of documentation and the relationship she had observed between Raelonda and her children, it was in the children's best interests that Raelonda's parental rights be terminated.

Allison Quadhammer testified that she had been a foster parent for Tramel, Tra Meliyoh, and Jai'Vion since May 27, 2011. She stated that she used to send a notebook to visitation containing information about the children's sleeping and eating schedules and Raelonda would enter similar information in the notebook. However, Quadhammer stopped sending the notebook to visitation after Raelonda did not write it for three weeks.

Quadhammer testified that she saw Raelonda on six occasions when dropping the children off for visitation. Quadhammer testified that on the six occasions she picked the children up from visitation, they seemed eager to get in the car and did not seem upset about the visit ending. Quadhammer testified that on one occasion, when she came to pick the children up, they began running around in the parking lot. According to Quadhammer, she

chased the children and tried to get them in the car, while Raelonda stood still and yelled, "Stop it. Come here."

Quadhammer testified that she believed Jai'Vion was not being fed adequately during visits because he ate excessive amounts after being picked up from Raelonda. Following a four-hour Sunday visit, Jai'Vion ate one-half to a full jar of baby food and drank 20 to 28 ounces of formula in a two to three-hour period. Quadhammer also testified that after another visit, Jai'Vion returned with symptoms of dehydration. He did not urinate for 16 hours and was very irritable and was unable to sleep. Raelonda, however, testified that she always fed Jai'Vion formula based on the last feeding recorded in the notebook and that she always fed and changed him before she fed the other children.

Quadhammer further testified that on four occasions the children returned from visitation with unchanged diapers. Jai'Vion returned with a diaper soaked full or exploded and Tra Meliyoh had feces crusted on his bottom.

Quadhammer testified that the boys' behavior improved dramatically after the four-hour Sunday visits with Raelonda were suspended and became progressively better as the visits were further reduced. According to Quadhammer, they became less aggressive, used less bad language, and had fewer temper tantrums.

Andrea Chrisman testified that she has been a foster parent for Jaiden and Jai'Sharriea since August 13, 2011. According to Chrisman, the children had improved and thrived since coming to live in her home.

Chrisman testified that when Jaiden returned from visiting Raelonda, he seemed distant, quiet, and, recently, very sad, and Jai'Sharriea seemed to be on edge. According to Chrisman, typically Jaiden acted out at school on the days following visitation.

Chrisman testified that Jaiden and Jai'Sharriea did not attend the December 18 visit with Raelonda. According to Chrisman, Jaiden decided not to attend after caseworkers informed him that he could choose not to go. When Chrisman told Jai'Sharriea that she could choose whether or not to attend visitation, Jai'Sharriea initially chose to attend, but changed her mind.

Chrisman testified that Raelonda gave Jai'Sharriea several gifts for her birthday, but Jaiden received a dime for his birthday. Jaiden also told Chrisman that Raelonda spent time during visits styling Jai'Sharriea's hair, while he played alone. Raelonda explained that she brought Jaiden cupcakes and balloons for his birthday but that she did not have money at the time to buy him a present. She denied giving him a dime but

stated that he found one on the ground and that she told him to keep it because it was good luck.

Raelonda testified that since the juvenile court's involvement, she had learned not to let anyone outside of her family babysit her children and to be more patient, open, cooperative, and less withdrawn. She testified that her relationship with her children had developed and maintained itself. The children would engage in conversation with her and they would play games or watch television together. Raelonda denied ever observing the children resisting visitation and that at the end of most visits, the children, including Jaiden, did not want to leave or would tell her that they wanted her to take them with her. Raelonda denied that Jaiden ever expressed to her that he was afraid to attend visitation.

Raelonda denied calling the foster parents stupid, denied talking in a derogatory manner to the children, and denied using profanity with them.

Raelonda testified that the only reason she had not made progress in the case was because of the caseworkers who were assigned to her. She listed several ways in which she thought her case was ineffectively managed. According to Raelonda, Gabel did not make sufficient attempts to contact family members for placement of the children when they were initially removed from Raelonda's care. She explained that the caseworkers did not meet

with her often and made assumptions about her based on documentation rather than getting to know her for themselves. She testified that she was not contacted directly when issues arose and that Hull did not follow through on housing assistance she had promised.

Raelonda admitted that she missed more than one team meeting between December 2009 and December 2010 because allegations of abuse arose in Jaiden and Jai'Sharriea's foster home that she did not want to talk about in a team meeting setting. She testified that she did not want the other people at the meeting to "gang up" on her. Raelonda would have preferred to speak to Hull personally about it, but instead Hull brought it up at the team meeting.

Raelonda testified that when Edwards was her case manager, they communicated regularly via text and telephone calls but when they were at team meetings, Edwards would "put on a front" and act more professionally rather than informally as she had during their conversations outside of meetings. Raelonda stated that at meetings, Edwards acted as though they had not had contact with each other and as though Raelonda had not been cooperating with her. According to Raelonda, after about four months, her relationship with Edwards broke down. Raelonda opined that Edwards was schizophrenic because she "would act one way and then act a different was [sic] in front of people, like

blurt out stuff that wasn't true." In Raelonda's opinion, the breakdown of her relationship with Edwards slowed the progress of her case.

Raelonda testified that during the period when Gowen supervised her visits, she did whatever the children wanted to do that day, such as playing games. She stated that she spoke to them individually, including Jaiden. She admitted that she spent time styling Jai'Sharriea's hair but denied that it took her attention away from the other children. Raelonda stated that it was a bonding activity for her and Jai'Sharriea and that she had been told during team meetings that because she did not like the chemicals the foster parents used in Jai'Sharriea's hair, she should style Jai'Sharriea's hair during visitation. She opined that the children seemed happy and excited to be with her and were sad when the visits ended.

Raelonda testified that when Volker took on her case, other than their initial introduction, she only saw Volker at the team meetings on a monthly basis. Raelonda's only other contact with Volker was when Volker would call her to tell her she had done something wrong. Raelonda testified that she would leave voicemail messages for Volker but Volker would not return her calls. Raelonda testified that she did not get along with Volker because Volker blamed her for everything that happened during visitation. In her opinion, Volker had slowed the progress of

her case. Raelonda stated that Volker could have helped the progress of her case by getting to know her and letting her know how the case was progressing.

Raelonda testified that her children's behavior and activities at visitation continued as they had always been after Volker took over. Raelonda denied that their behavior after visitation had anything to do with her, except to the extent that they missed her.

Raelonda testified that she had signed all the releases that the Department requested that she sign. Raelonda testified that Volker had her current address and phone number at the time of trial. When asked by counsel to state her current address, however, Raelonda refused.

Raelonda testified that her paycheck was being garnished for child support for Tra Meliyoh, and that she was not current on his support. She admitted that the only other support she had provided to her children since they were removed from her home was visitation.

In Raelonda's opinion, it would be in the children's best interests to return to her because she had a bond with them and knew what was best for them. She stated that if they needed therapy, she would obtain it for them and attend with them. Raelonda testified that if she had had more contact with her

children throughout the course of the case, her case would have progressed.

In addition to her testimony, Raelonda called out several times during other witnesses' testimony, calling them liars and otherwise attacking the veracity of their testimony.

The juvenile court entered its orders on January 26, 2012. The juvenile court found by clear and convincing evidence that: (1) Raelonda had substantially and continuously or repeatedly neglected and refused to give her children necessary parental care and protection, (2) the children had previously been adjudicated under § 43-247(3)(a) and reasonable efforts of the court had failed to correct the conditions leading to their adjudication; and (3) termination of Raelonda's parental rights was in the children's best interests. Regarding the four oldest children, the juvenile court also found that they had been in out-of-home placement for fifteen or more of the most recent twenty-two months. The juvenile court terminated Raelonda's parental rights to her four oldest children pursuant to Neb. Rev. Stat. § 43-292(2), (6) and (7) (Cum. Supp. 2010) and to her youngest child pursuant to § 43-292(2) and (6). Raelonda timely appeals.

ASSIGNMENTS OF ERROR

Raelonda alleges that the juvenile court erred in: (1) finding that Raelonda's parental rights should be

terminated; (2) admitting hearsay evidence over objection; (3) admitting and considering documentary reports over objection; and (4) finding that the evidence was sufficient to terminate Raelonda's parental rights.

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 Jorge O.*, 280 Neb. 411, 786 N.W.2d 343 (2010).

ANALYSIS

Admission of Evidence.

Raelonda alleges that the juvenile court erred in admitting reports authored by representatives of the Department, over Raelonda's hearsay, foundation, and relevancy objections, because their admission violates the due process rules of fundamental fairness. Her brief does not specifically state the numbers of the exhibits to which she refers, but the record is replete with objections by her counsel. We also note that the reports were received in evidence at earlier proceedings in Raelonda's case, which were received as evidence at trial with the exhibits detached, and that Raelonda's counsel relied on some of the reports while cross-examining witnesses. Moreover, the content of the reports is largely similar to the content of

the testimony at trial, and in many instances appears to be beneficial to Raelonda.

In determining whether admission or exclusion of particular evidence in a parental rights termination case would violate fundamental due process, the Nebraska Evidence Rules serve as a guidepost. *In re Interest of Destiny A. et al.*, 274 Neb. 713, 742 N.W.2d 758 (2007). The improper admission of evidence by a juvenile court in a parental rights termination proceeding does not, in and of itself, constitute reversible error; a showing of prejudice must be made. *In re Interest of Ty M. & Devon M.*, 265 Neb. 150, 655 N.W.2d 672 (2003).

Given our de novo review of this record, even assuming that the juvenile court erred in admitted the disputed reports, such error was harmless.

Our review is de novo on the record; any error is cured so long as this court does not rely on the challenged evidence. Improper admission of evidence in a parental rights proceeding does not, in and of itself, constitute reversible error, for, as long as the appellant properly objected, an appellate court will not consider any such evidence in its de novo review of the record.

In re Interest of Hope L., 278 Neb. 869, 889, 775 N.W.2d 384, 3989 (2009). Our summary of the evidence does not include information from the disputed reports. As we explain in more detail below, there is sufficient evidence to support the

termination of Raelonda's parental rights, apart from the evidence to which she objected. Therefore, her argument regarding the admission of the reports lacks merit.

Grounds for Termination.

Raelonda assigns that the evidence was not sufficient to support termination of her parental rights. The argument portion of her brief does not refer to the juvenile court's specific findings but disputes various specific allegations made against her in the evidence presented at trial. According to Raelonda, these allegations "are easily taken out of context and exaggerated, and are easily explained or clarified; and none of them, individually or collectively, constitute a reason or reasons for denying Raelonda W. the opportunity to parent her children." Brief for appellant at 16.

In Nebraska statutes, the bases for termination of parental rights are codified in Neb. Rev. Stat. § 43-292 (Cum. Supp. 2010). Section 43-292 provides 11 separate conditions, any one of which can serve as the basis for the termination of parental rights when coupled with evidence that termination is in the best interests of the child. *In re Interest of Sir Messiah T. et al.*, 279 Neb. 900, 782 N.W.2d 320 (2010).

In its orders terminating Raelonda's parental rights to her children, the juvenile court found that Raelonda substantially and continuously neglected to give all five children necessary

parental care and protection (§ 43-292(2)); all five children had previously been adjudicated under § 43-247(3)(a) and reasonable efforts of the court had failed to correct the conditions leading to their adjudication (§ 43-292(6)); and the four oldest children had been in out-of-home placement for 15 or more months of the most recent 22 months (§ 43-292(7)).

The four oldest children were removed from Raelonda's home on November 18, 2009. At the time the motion to terminate parental rights was filed on October 10, 2011, the four oldest children had been in an out-of-home placement for almost 23 months. Our de novo review of the record clearly and convincingly shows that as to Jaiden, Jai'Sharriea, Tramel, and Tra Meliyoh, grounds for termination of Raelonda's parental rights under § 43-292(7) were proven by sufficient evidence.

Regarding Jai'Vion, we conclude that grounds for termination of Raelonda's parental rights were proven by sufficient evidence pursuant to § 43-4929(2) because she substantially and continuously neglected to give Jai'Vion or his siblings necessary parental care and protection. Under § 43-292(2), the court should look for the parent's continued improvement in parenting skills and a beneficial relationship between parent and child. *In re Interest of Deztiny C.*, 15 Neb. App. 159, 723 N.W.2d 652 (2006). One need not have physical possession of a child to demonstrate the existence of the

neglect contemplated by § 43-292(2). *In re Interest of Kalie W.*, 258 Neb. 46, 601 N.W.2d 753 (1999).

Jai'Vion was removed from Raelonda's care at birth because his siblings had been adjudicated after Raelonda left the young children alone at night. Throughout Jai'Vion's life, Raelonda, through her lack of cooperation and personal shortcomings, has been unable to provide for his and his siblings' most basic needs of shelter and stability. Jai'Vion's foster mother testified that he would return from visits with Raelonda famished and in unchanged diapers. Since Jai'Vion's birth, and despite the aid of the Department, Raelonda has been unable to put herself in a position to care for Jai'Vion beyond the brief and ever-decreasing periods during supervised visitation. Our de novo review of the record shows clear and convincing evidence that as to Jai'Vion, grounds for termination of Raelonda's parental rights under § 43-292(2) were proven by sufficient evidence.

Once a statutory basis for termination has been proved, the next inquiry is whether termination is in the child's best interests.

Best Interest.

Neb. Rev. Stat. § 43-292 requires that parental rights can only be terminated when the court finds that termination is in the child's best interests. A termination of parental rights is

a final and complete severance of the child from the parent and removes the entire bundle of parental rights. See *In re Interest of Crystal C.*, 12 Neb. App. 458, 676 N.W.2d 378 (2004). Therefore, with such severe and final consequences, parental rights should be terminated only "in the absence of any reasonable alternative and as the last resort." See *In re Interest of Kantril P.*, 257 Neb. 450, 467, 598 N.W.2d 729, 741 (1999). However,

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 Andrew M. et al.*, 11 Neb. App. 80, 643 N.W.2d 401 (2002). Children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity. *In re Interest of Phyllisa B.*, 265 Neb. 53, 654 N.W.2d 738 (2002).

In re Interest of Stacey D., 12 Neb. App. 707, 717, 684 N.W.2d 594, 602 (2004).

Evidence at trial showed displays of love and affection between Raelonda and her children, as well as some efforts on Raelonda's part to improve her parenting abilities. However, the record also shows that Raelonda was consistent in her failure to cooperate with caseworkers, her lack of common sense in caring for her children, and her denials that she did anything to warrant removal of her children in the first place. Even during

the short opportunities Raelonda had to interact with her children during visitation, Raelonda often acted inappropriately toward them; and the cumulative incidents paint a picture of habitually poor parenting skills.

Raelonda opined that her case would have progressed had she had different caseworkers and more time with her children, yet it was her own behavior that resulted in the continual conflict with the caseworkers and reduction of visits. Raelonda recognized the connection between her reduction of visitation and her own behavior, but she viewed the reduced visitation as punishment to her, rather than a measure to secure the best interests of her children. At times Raelonda paid little attention to the children and exercised poor supervision.

Moreover, Jaiden, Jai'Sharriea, Tramel, and Tra Meliyoh had been in out of home placement for two years when the juvenile court terminated Raelonda's parental rights. During that significant portion of her children's young lives, Raelonda was unable to rehabilitate herself, despite the services made available to her.

Jai'Vion has been separated from Raelonda since his birth, and he was a year old when the juvenile court entered its order terminating Raelonda's parental rights. Jai'Vion had resided in the same foster home with Tramel and Tra Meliyoh since he was five months old. The evidence clearly and convincingly shows

that Raelonda is unable to provide the permanency and stability Jai'Vion needs. Although Raelonda offered contradictions and explanations in her testimony in response to the State's evidence, we observe that the juvenile court apparently did not consider Raelonda's testimony to be very credible, and an appellate court will consider the fact that the trial court saw and heard the witnesses and observed their demeanor while testifying, and will give great weight to the trial court's judgment as to credibility. *In re Interest of J.R.*, 277 Neb. 362, 762 N.W.2d 305 (2009). Based on our de novo review, we conclude that it is in the best interests of the children that Raelonda's parental rights be terminated.

CONCLUSION

For the reasons stated above, we affirm the juvenile court's order terminating Raelonda's parental rights to Jaiden W., Jai'Sharriea W., Tramel P., Tra Meliyoh P., and Jai'Vion W.

AFFIRMED.