

IN THE NEBRASKA COURT OF APPEALS

In re Interest of Nelliaha B.)
and Kamesha J.,)
Children under 18 years of age.)
)
State of Nebraska,)
)
Appellee,)
)
v.)
)
Robin J.,)
)
Appellant.)

No. A-12-0001

MEMORANDUM OPINION
AND
JUDGMENT ON APPEAL

FILED

SEP 14 2012

CLERK
NEBRASKA SUPREME COURT
COURT OF APPEALS

IRWIN, SIEVERS, and PIRTLE, Judges.

SIEVERS, Judge.

Robin J. appeals from an order of the separate juvenile court for Lancaster County terminating her parental rights to her children, Nelliaha B. and Kamesha J. We affirm.

BACKGROUND

Nelliaha, born in September 2004, and Kamesha, born in July 2008, are the natural children of Robin. Kamesha's natural father is Brian J. The name of Nelliaha's natural father is unclear from our record, and since he is not part of this appeal he will not be discussed any further.

The State filed a petition on July 23, 2008, alleging that Nelliaha and Kamesha were within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) by reason of the faults or habits of Robin. The State alleged that: during March 2008 Nelliaha was



subjected to inappropriate sexual contact by Brian J., Robin's boyfriend; on or about April 1, 2008, Brian was arrested for first degree sexual assault; Robin had taken insufficient steps to protect Nelliaha; and due to the above allegations, the children were at risk of harm.

Also on July 23, 2008, the State filed a motion for temporary custody. In support of its motion, the State attached the affidavit of Tracy Jablonsky-Lage, a protection and safety worker with the Nebraska Department of Health and Human Services (DHHS). In her affidavit, Jablonsky-Lage alleged: that she was assigned an intake received on April 1 concerning the sexual abuse of 3-year-old Nelliaha by Robin's boyfriend, Brian; Nelliaha was interviewed at Project Harmony and indicated that Brian put his fingers in her genitals, and that she performed oral sex on Brian when he told her to; a colposcopic exam revealed findings consistent with Nelliaha's disclosures of being sexually assaulted; Robin reported that she was unaware of any inappropriate interactions between Brian and Robin; Brian was arrested and booked into jail on a charge of first degree sexual assault on April 1; because Brian was jailed and Robin reported that she was willing to cooperate with DHHS, Nelliaha was allowed to remain in Robin's home. Jablonsky-Lage further alleged: during the course of the investigation Jablonsky-Lage was informed that Robin had been in contact with Brian who was

still incarcerated; Jablonsky-Lage listened to recordings of phone calls between Brian and Robin wherein Robin continued to waiver on whether she believed Nelliaha had been abused by Brian and he tried to convince her to bail him out of jail; on July 21 Jablonsky-Lage learned that Robin had bonded Brian out of jail and left Nelliaha in his care when Robin went to the hospital to deliver her baby; a social worker witnessed Brian at the hospital with Nelliaha; the social worker reported that Robin stated Brian "did not abuse Nelliaha and everyone needed to leave them alone, they knew who did it and would take care of it." The juvenile court entered an order for immediate custody on July 23, 2008, wherein the children were placed in the custody of DHHS.

The State filed an amended petition on October 7, 2008, again alleging that Nelliaha and Kamesha were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Robin. The State's allegations regarding Robin were the same as in the original petition. However, the State also alleged that Nelliaha and Kamesha were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Brian J., natural father of Kamesha and stepfather of Nelliaha.

In an order filed on May 12, 2009, upon stipulated motion of the parties, the court found that the children should remain in the custody of DHHS, but that placement should include the

home of Robin, subject to the provisions that the children have no contact with Brian and that Robin follow the safety plan developed by DHHS and continue cooperating with DHHS.

On May 19, 2009, the court granted the State's motion to dismiss Count III of the amended petition, which alleged that Nelliaha and Kamesha were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Brian J.

On May 22, 2009, the juvenile court adjudicated Nelliaha and Kamesha to be within the meaning of § 43-247(3)(a) based on Robin's no contest plea to the allegations in the amended petition. The court ordered the children to remain in the custody of DHHS for appropriate care and placement to include the home of Robin. The court also ordered Robin to undergo a psychological evaluation; continue in individual therapy; participate in family therapy with Nelliaha; and notify the court, counsel, and DHHS of any change of address and phone number within 48 hours of said change.

A disposition/permanency hearing was held on July 27, 2009 (the proceedings of which do not appear in our record). In its order filed the same day, the juvenile court ordered the children to remain in the custody of DHHS for appropriate care and placement to include the home of Robin. The court also ordered Robin to undergo a psychological evaluation; continue to participate in individual and family therapy; maintain safe and

adequate housing and a legal source of income; and notify the court, counsel, and DHHS of any change of address and phone number within 48 hours of said change.

A review/permanency hearing was held on October 23, 2009 (the proceedings of which do not appear in our record). In its order filed the same day, the juvenile court terminated its jurisdiction and relieved DHHS of any further responsibility as to Kamesha. The juvenile court retained jurisdiction over Nelliaha.

A review/permanency hearing was held on May 6, 2010 (the proceedings of which do not appear in our record). In its order filed on May 7, the juvenile court noted that Robin had absconded with Nelliaha without court authorization, and their whereabouts were unknown. The court ordered Robin to immediately contact DHHS and make arrangements to deliver the child to DHHS; undergo an updated psychological evaluation once she makes herself available to DHHS; take care of her obligations pursuant to the outstanding warrants that are against her; maintain safe and adequate housing and a legal source of income; and notify the court, counsel, and DHHS of any change of address and phone number within 48 hours of said change.

The State filed a supplemental petition on October 1, 2010, alleging that Nelliaha and Kamesha were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Robin. The

State alleged that: Robin failed to provide the children with proper parental care, support, and/or supervision; Robin's use of alcohol and/or controlled substances places the children at risk of harm; Nelliaha and Kamesha were made state wards in September 2008, Nelliaha and Kamesha came under the court's jurisdiction because Brian J. subjected Nelliaha to inappropriate sexual contact in March 2008; Nelliaha and Kamesha were returned to Robin's home on May 11, 2009; the juvenile court terminated jurisdiction to Kamesha on October 23, 2009; on or about February 2010, Robin absconded from Douglas County with Nelliaha, who was a state ward in the custody of DHHS, and Kamesha; phone records from Douglas County Corrections indicate that Robin maintained contact with Brian J., the perpetrator, throughout the course of this case, although she denied any contact to case professionals; Robin is incarcerated, making her unable to provide said children with proper parental care and support; and due to the above allegations, the children were at risk of harm. The State also alleged that Nelliaha and Kamesha were within the meaning of § 43-247(3)(a) by reason of the faults or habits of Brian J., father of Kamesha and stepfather of Nelliaha.

Also on October 1, 2010, the State filed a motion for temporary custody. In support of its motion, the State attached the affidavit of Haylie May, a child and family services

specialist with DHHS. In her affidavit, May alleged: Nelliaha and Kamesha were made wards of the state in July 2008 and were placed in 2008; the children were returned to Robin's home on May 11, 2009; Robin and Brian J. were married on July 1, 2008; Brian began his sentence of 4-5 years on September 14, 2010, for third degree sexual assault of a child as well as attempted assault by strangulation--the victim of the sexual assault was Nelliaha; in October 2009, Douglas County Corrections phone records indicated that Robin and Brian were having ongoing telephonic contact up to three times per day while the children were in her care--Robin and Brian expressed their love for one another and their desire to be together; Robin had maintained to the court and other professionals that she had not had any contact with Brian and intended to divorce him; Robin left the state of Nebraska with her two children in February 2010 without the consent or knowledge of DHHS and the juvenile court; Robin was arrested on September 20, 2009, and again on December 16 and charged with driving under the influence, and she has active warrants relating to failing to appear on those charges; the children were located with Robin in Arizona on September 24, 2010--the children were placed in protective custody at that time and Robin was arrested and is now being held pending extradition to Nebraska for felony charges of violation of a custody order; the children were returned to Nebraska on

September 29, 2010, and placed into foster care; Robin signed a voluntary placement agreement with DHHS on September 27, 2010, with regards to Kamesha; and Nelliaha remains in the custody of DHHS. The juvenile court entered an order for immediate custody on October 1, 2010, wherein the court ordered that DHHS would retain custody of Nelliaha and would take custody of Kamesha. The children were placed in foster care where they have remained ever since.

A protective custody/detention hearing was held on November 8, 2010, as to both Robin and Brian on the supplemental petition (the proceedings of which do not appear in our record). In its order filed on November 9, the juvenile court noted that Robin and Brian entered pleas of denial to the allegations in the supplemental petition. The court ordered the children to remain in the custody of DHHS.

On December 6, 2010, the State filed a motion for termination of Robin's parental rights to Nelliaha and Kamesha pursuant to Neb. Rev. Stat. § 43-292(2), (6), and (9) (Reissue 2008). The State alleged that: Robin had substantially and continuously or repeatedly neglected and refused to give the children necessary parental care and protection; reasonable efforts to preserve and reunify the family had failed to correct the conditions leading to the adjudication; Robin subjected the children to aggravated circumstances including, but not limited

to, abandonment, torture, chronic abuse, or sexual abuse; and termination was in the children's best interests.

Also on December 6, 2010, the State filed a second supplemental petition alleging that Kamesha was within the meaning of § 43-247(3)(a) by reason of the faults or habits of Brian. The State also alleged that Brian's parental rights to Kamesha should be terminated pursuant to Neb. Rev. Stat. § 43-292(2) and (9). The State alleged that: Brian had substantially and continuously or repeatedly neglected and refused to give the child or a sibling of said child necessary parental care and protection; Brian subjected the juvenile or another minor child to aggravated circumstances including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse; and termination was in Kamesha's best interests.

On September 2 and November 28, 2011, a hearing was had on (1) the adjudication of the supplemental petition as to Robin and Brian, (2) the adjudication of the second supplemental petition as to Brian and Kamesha with a prayer for termination of parental rights, and (3) the motion for termination of parental rights as to Robin and both children. The testimony from the termination hearing will be set forth as necessary in our analysis.

In an order filed on November 28, 2011, as to the motion for termination of Robin's parental rights, the juvenile court

found that the children were within the meaning of § 43-292(2), (6), and (9). The juvenile court terminated Robin's parental rights to Nelliaha and Kamesha after finding that such was in the children's best interest. In a separate order filed on November 28, as to the second supplemental petition relating to Brian, the juvenile court found that the Kamesha was within the meaning of § 43-292(2) and (9). The juvenile court terminated Brian's parental rights to Kamesha after finding that such was in the child's best interest. Only Robin has timely appealed to this court.

ASSIGNMENTS OF ERROR

Robin assigns that the juvenile court erred in (1) admitting recorded evidence without proper foundation; (2) finding that Robin substantially and continuously and repeatedly neglected and refused to give the children the necessary parental care and protection; (3) finding that reasonable efforts failed to correct the conditions leading to the determination that the children were as described in § 43-247(3)(a); (4) finding that Robin subjected the children to aggravated circumstances; and (5) finding that termination of Robin's parental rights was in the children's best interest.

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

Exhibit 15.

Robin argues that the juvenile court erred in admitting exhibit 15 without proper foundation. Exhibit 15 is a compact disc containing audio recordings of phone calls between Robin and Brian, who was an inmate at the Douglas County Correctional Center (DCCC).

The Nebraska Evidence Rules do not apply in cases involving the termination of parental rights. *In re Interest of Destiny A.*, 274 Neb. 713, 742 N.W.2d 758 (2007). Instead, due process controls and requires that the State use fundamentally fair procedures before a court terminates parental rights. *Id.* In determining whether admission or exclusion of particular evidence would violate fundamental due process, the Nebraska Evidence Rules serve as a guidepost. *Id.* Whether there is sufficient foundation evidence for the admission of physical evidence must necessarily be determined on a case-by-case basis. *State v. Jacobson*, 273 Neb. 289, 728 N.W.2d 613 (2007). A trial court's determination of the admissibility of physical evidence will not ordinarily be overturned except for an abuse of discretion. *Id.*

Neb. Rev. Stat. § 27-901(1) (Reissue 2008) provides that the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. Section 27-901(2) provides examples of some methods of authentication or identification that conform with the requirements of § 27-901(1). Those examples include:

(a) Testimony that a matter is what it is claimed to be;

. . . .

(e) Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker;

. . . .

(i) Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result

. . . .

§ 27-901(2).

In the instant case, the State offered into evidence exhibit 15, a compact disc containing recorded telephone calls between Robin and Brian, who at the time was incarcerated at the Douglas County Correctional Center. As foundation for the exhibit, the State presented testimony from three witnesses. The

first witness was Laurie McGarvey. McGarvey is the site administrator at DCCC. McGarvey testified that recordings of inmate phone calls are kept in the regular course of business at the DCCC. McGarvey testified that inmates have a data number and a pin number, and that the inmates must use both numbers to make calls. She testified that recorded calls can be retrieved at a later date through the Inmate Management System. Calls can be retrieved by inmate data number, inmate name, or the phone number. She testified that the following information can be retrieved by the database: the day of the call, the exact time of the call, how long the call lasted, the inmate data number, what kind of call it was, who paid for the call, and what housing unit the call came from. McGarvey testified that she is responsible for maintaining the inmate telephone system. McGarvey testified that the system was working on February 7, March 11, and March 18, 2010. In fact, she testified that if the system is down, inmates cannot make calls and no calls can be recorded. She testified that it is not possible to alter or edit outgoing calls made by inmates. McGarvey's testimony satisfied § 27-901(2)(i) by describing the process and system used in creating recordings, the inability of recordings to be made if the system is down, and the inability to modify recordings.

The second witness was Steven Henthorn. Henthorn is an investigator with the Douglas County Attorney's office. Henthorn

testified that as part of his job, he obtains recordings of phone conversations from inmates at DCCC. Henthorn testified that retrieving inmate calls and copying such to compact discs are done in the ordinary course of his job as an investigator. Henthorn described the process used to retrieve inmate calls. Henthorn logs onto a web-based site, inputs time parameters and dates, and then the calls can be searched by inmate data number or by a specific phone number. Once the desired phone calls have been selected, the files are imported into software and can then be copied to a disc. Henthorn testified that in the instant case, he input Brian's name, date of birth, data number, and set the parameters for February and March 2010. Henthorn testified that he put all calls from that time period onto a disk, exhibit 15, and that he did not alter or edit the conversations. Henthorn's testimony satisfied § 27-901(2)(a) and (i).

The third witness was Haylie May. May is a children and family outcome monitor for DHHS. She was previously employed as a child and family services specialist for DHHS. May was the case manager for Nelliaha and Kamesha from September 21 through December 12, 2010. May testified that she was familiar with both Robin's voice and Brian's voice. May testified that she listened to eight phone calls on exhibit 15, and those calls were made on: February 7, 2010 at 8:44 am; February 7 at 9:01 am; February 7 at 1:04 pm; March 11 at 12:21 pm; March 11 at 1:12 pm; March

11 at 6:50 pm; March 18 at 12:02 pm; and March 18 at 12:18 pm. May testified that on each of those calls the male voice was Brian's and the female voice was Robin's. May's testimony satisfied § 27-901(2)(a) and (e).

The State offered exhibit 15 into evidence specifically for the eight phone calls we set forth above. When considered collectively, the testimony of McGarvey, Henthorn, and May established sufficient foundation for the juvenile court to receive exhibit 15 into evidence. Thus, Robin's assignment of error to the contrary is without merit.

Grounds for Termination.

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 order terminating Robin's parental rights to Nelliaha and Kamesha, the juvenile court found that Robin: substantially and continuously neglected to give the children necessary parental care and protection (§ 43-292(2)); reasonable efforts under the direction of the court have failed to correct the conditions leading to the determination that Nelliaha and

Kamesha are children as defined by § 43-247(3)(a) (§ 43-292(6)); and that Robin subjected the children to aggravated circumstances including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse (§ 43-292(9)). Our de novo review of the record clearly and convincingly shows that grounds for termination of Robin's parental rights under § 43-292(2) were proven by sufficient evidence.

Robin, through her romantic relationships with inappropriate men, has substantially and continuously neglected to give the Nelliaha and Kamesha necessary parental care and protection. Robin married Brian on July 1, 2008, despite the fact that Brian had subjected Nelliaha to inappropriate sexual contact that March. As evidenced by exhibit 15, during February and March 2010, Robin continued to have contact with Brian, who was incarcerated at DCCC on charges related to the sexual assault of Nelliaha. Robin's continued contact with Brian was despite the fact that she had maintained to professionals she had not had any contact with Brian and intended to divorce him. Robin remained married to Brian at the time of termination hearing.

On January 21, 2010, Officer Richard Stickney, II, of the Omaha Police Department responded to a domestic violence disturbance call. Robin reported to Officer Stickney that DeVance Ross, her boyfriend of 4 to 5 months, had kicked in her

door, entered her residence, assaulted Robin while she held Kamesha, and that Ross grabbed Kamesha and threw her on the bed. Ross was later arrested for the incident. Officer Stickney advised Robin as to how to obtain a protection order. In February 2010, Robin fled to Arizona with Nelliaha and Kamesha without the court's permission. They were located several months later and returned to Nebraska. The girls were placed in foster care and Robin was incarcerated.

On April 27, 2011, Officer Andrea Wells with the Omaha Police Department responded to a call regarding a possible assault and miscarriage. Officer Wells met Robin at the hospital. Robin reported that she had been at a club with DeVance Ross, that he asked to borrow her phone, and that they began arguing over some text messages. Robin stated that when she and Ross went back to the apartment Ross assaulted her--he pulled her by her hair into the apartment and struck her 2 to 3 times in the head; when she indicated she was pregnant and went to the restroom, Ross proceeded to kick her in the side and stomach twice. Robin told Officer Wells that she and Ross had a history of domestic violence.

Rachelle Barcel, a family permanency specialty with Nebraska Families Collaborative, testified that she spoke to Robin the week of the termination hearing. Robin informed Barcel

that Ross was the father of her unborn baby and that they are still together.

Since the beginning of this case, Robin has continuously been involved with dangerous men. In March 2008, her boyfriend Brian sexually assaulted Nelliaha. Despite the sexual assault, Robin married Brian in July 2008 and remained married to him at the time of the termination hearing. In January 2010, DeVance Ross, Robin's boyfriend of 4 to 5 months, assaulted Robin while she held Kamesha, and then threw Kamesha on a bed. Following this incident, Robin fled to Arizona with Nelliaha and Kamesha despite the fact that Nelliaha was a ward of the State. After Robin and the girls were located and returned to Nebraska, the girls were removed from Robin's care yet again and Robin was incarcerated for a period of time. Then, in April 2011 Robin was involved in another domestic violence incident with Ross. And as of the week of the termination hearing, Robin and Ross were still in a relationship. Robin has substantially and continuously neglected to give the children necessary parental care and protection, by failing to protect the children from abusive men. Robin's continued relationship with these men also demonstrates her unwillingness to protect and care for her children in the future, and that her desire for a romantic relationship of some sort takes precedence over her children.

Clearly grounds for termination of Robin'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 children's best interests.

We note that because we do not consider whether termination of Robin's parental rights was proper pursuant to § 43-292(6), Neb. Rev. Stat. § 43-283.01 (Cum. Supp. 2010), which requires reasonable efforts to reunify families, is not applicable to the instant case. *In re Interest of Andrew M.*, 11 Neb. App. 80, 643 N.W.2d 401 (2002). Section 43-283.01 is only incorporated into § 43-292(6), not into the remaining subsections of § 43-292. *Id.* *Best Interest.*

Robin argues that the juvenile court erred in finding that terminating her parental rights was in the best interest of the children. 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).

As stated above, Robin continues in her relationships with abusive men. She married Brian despite the fact that he sexually assaulted Nelliaha. Despite telling professionals that she intended to divorce Brian, exhibit 15 contains eight phone calls between Robin and Brian in February and March 2010. In those calls, conversations of a sexual nature took place, and Robin told Brian that she loved him more than once. At the time of the termination hearing, Robin was still married to Brian. In January 2010, Robin was assaulted by Ross, her boyfriend, while she was holding Kamesha. More than a year later, in April 2011, Robin was again assaulted by Ross. The week of the termination hearing Robin told Barcel that she and Ross were still in a relationship.

Dr. Joseph Stankus, a clinical psychologist, conducted a psychological evaluation on Robin in the fall of 2010. Dr. Stankus testified that he diagnosed Robin with mild mental retardation and personality disorder, not otherwise specified with antisocial and self-defeating features. Dr. Stankus testified that it takes 3 to 5 years to treat a personality disorder because you need to change the way a person behaves in their environment, and they have to break off ties with abusive people. Dr. Stankus testified that Robin is more interested in her allegiance to her husband than the care of her children. Dr. Stankus also testified that Robin does not spend much time with her children, she is not very nurturing, she does not pay a lot of attention to them, and that Robin did not have a strong emotional bond to the children. Dr. Stankus testified that Robin is not in a position to resume custody of her children.

Cathy Schweitzer, a licensed mental health therapist, has seen Nelliaha since December 2010. Schweitzer testified that Nelliaha was diagnosed with: disruptive behavior disorder, not otherwise specified; PTSD as a rule-out; and reactive attachment disorder as a rule-out. Schweitzer also testified that Nelliaha has "survival brain," in that she is very hyper-vigilant in her need to control her world. According to Schweitzer, Nelliaha exhibits sexualized behaviors, such as provocative dancing and touching herself in her genital areas. Schweitzer testified that

Nelliaha disclosed that Brian had hurt her and touched "her privates." Nelliaha also said there was a lot of yelling, screaming, and fighting while living with Robin. Schweitzer testified that it is very difficult to treat children with attachment and trauma issues until they are in a stable placement. She testified that children need permanency, and a stable environment that is reliable, predictable, and free from violence. Schweitzer testified that Robin's parental rights should be terminated.

Haylie May testified that she was the case manager for Nelliaha and Kamesha from September 21 through December 12, 2010. When May took over the case, she did not know where Robin and the children were. They were later located in Arizona and returned to Nebraska. May testified that there were safety concerns when she could not locate the family. Furthermore, May was concerned after listening to the inmate calls between Robin and Brian, because was "lots of cussing toward the children, inappropriate comments, inappropriate conversations to be having in front of the children while they're present, just fairly abusive in general toward the children." May was also concerned that Robin was having continued contact with Brian and that she married him after the sexual abuse allegations were made. May testified that Robin's parental rights to both children should be terminated.

Rachelle Barcel became Nelliaha and Kamesha's case manager in May 2011. Barcel is concerned about the people with whom Robin associates. Robin reported to Barcel that two of her friends are prostitutes, and Barcel has seen these individuals at Robin's residence. Barcel is concerned that Robin is still in a relationship with Ross, a violent man with whom Robin has had domestic violence incidents. Barcel testified that Robin still does not understand how to protect the girls and what actually puts the girls in danger. Barcel believes that Nelliaha and Kamesha would be at risk of harm if returned to Robin's home. Barcel testified that Robin's parental rights should be terminated.

Nelliaha and Kamesha need a stable, able and willing caregiver and unfortunately Robin has not proven himself to be such a caregiver. Robin continues to choose abusive and dangerous men over her own children. And Robin does not appear to understand how to protect her girls. "Children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity." *In re Interest of Walter W.*, 274 Neb. 859, 872, 744 N.W.2d 55, 65 (2008). Robin is an unfit parent. Therefore, the juvenile court did not error in finding that it is in Nelliaha and Kamesha's best interest that Robin's parental rights be terminated.

CONCLUSION

We find that grounds for termination of Robin's parental rights exist under Neb. Rev. Stat. § 43-292(2) and that termination of Robin's parental rights is in Nelliaha and Kamesha's best interest. Therefore, we affirm the decision of the juvenile court terminating Robin's parental rights to Nelliaha and Kamesha.

AFFIRMED.