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V. CONCLUSION

Upon our review, we find that the district court erred in determining that Balvin committed an aggravated offense and was, as a result, subject to lifetime community supervision. We find that the jury should have determined whether Balvin committed an aggravated offense. We reverse, and remand with directions to conduct an evidentiary hearing so that a jury may make a finding regarding whether Balvin's offense was aggravated and, thus, whether he was subject to lifetime community supervision. We affirm the conviction and sentence in all other respects.

As to Balvin's claims of ineffective assistance of counsel, we find that he was not denied effective assistance of counsel when substitute counsel appeared on Balvin's behalf during a pretrial hearing, when counsel failed to refresh A.R.'s memory about a prior false report that she had been sexually assaulted, when counsel made a motion to dismiss at the close of the evidence, or when counsel failed to object to the State's closing argument. We find that the record is insufficient to review the remaining grounds for Balvin's ineffective assistance of counsel claim.

AFFIRMED IN PART, AND IN PART REVERSED AND REMANDED WITH DIRECTIONS.

IN RE INTEREST OF JUSTIN H. ET AL., CHILDREN UNDER 18 YEARS OF AGE. STATE OF NEBRASKA, APPELLEE AND CROSS-APPELLEE, V. TONYA S., APPELLANT, AND JEFFREY H. AND MICHAEL F., APPELLEES AND CROSS-APPELLANTS.

791 N.W.2d 765

Filed December 7, 2010. No. A-10-094.

1. **Juvenile Courts: Appeal and Error.** Juvenile cases are reviewed de novo on the record, and an appellate court is required to reach a conclusion independent of the juvenile court's findings.
2. **Evidence: Appeal and Error.** When the evidence is in conflict, an appellate court may give weight to the fact that the lower court observed the witnesses and accepted one version of the facts over the other.

3. **Juvenile Courts: Parental Rights: Proof.** For a juvenile court to terminate parental rights under Neb. Rev. Stat. § 43-292 (Reissue 2008), it must find that one or more of the statutory grounds listed in this section have been satisfied and that termination is in the child's best interests.
4. **Parental Rights: Evidence: Appeal and Error.** 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 Neb. Rev. Stat. § 43-292 (Reissue 2008), the appellate court need not further address the sufficiency of the evidence to support termination under any other statutory ground.
5. **Parental Rights: Proof.** Neb. Rev. Stat. § 43-292(7) (Reissue 2008) 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.
6. **Parental Rights: Words and Phrases.** 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; 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.
7. **Parent and Child.** The law does not require perfection of a parent. Instead, courts should look for the parent's continued improvement in parenting skills and a beneficial relationship between parent and child.
8. **Juvenile Courts: Jurisdiction.** To obtain jurisdiction over a juvenile, the court's only concern is whether the conditions in which the juvenile presently finds himself or herself fit within the asserted subsection of Neb. Rev. Stat. § 43-247 (Reissue 2008).
9. **Juvenile Courts: Jurisdiction: Proof.** At the adjudication stage, in order for a juvenile court to assume jurisdiction of minor children under Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008), the State must prove the allegations of the petition by a preponderance of the evidence.

Appeal from the Separate Juvenile Court of Douglas County: WADIE THOMAS, Judge. Affirmed in part, and in part reversed and remanded.

Anne E. Troia, of Kruger & Troia, P.C., L.L.O., for appellant.

Donald W. Kleine, Douglas County Attorney, Jennifer Chrystal-Clark, and Daniel Gubler, Senior Certified Law Student, for appellee State of Nebraska.

Sally J. Hytrek for appellee Jeffrey H.

Michael Matthews for appellee Michael F.

IRWIN, SIEVERS, and CARLSON, Judges.

IRWIN, Judge.

I. INTRODUCTION

Tonya S. appeals and Jeffrey H. and Michael F. cross-appeal from three separate juvenile court orders. Collectively, the three juvenile court orders concern eight children: Stephanie H., Justin H., Nicholas H., Zachary K., Ashley H., Austin H., Kiarra F., and Cian F. In the first order, the juvenile court terminated Tonya's parental rights to her six children. In the second order, the juvenile court terminated Jeffrey's parental rights to his four children. In the third order, the juvenile court adjudicated Michael's two children as being within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) as to Michael.

The appeals from these three juvenile court orders are related in that each parent shares at least one child with another parent involved in the case. However, the appeals are distinct in that each parent appeals from a separate order and, in the proceedings below, different evidence was presented as to each parent. Accordingly, we will address each appeal separately. Our discussion of each appeal will include a recitation of the factual background relevant to the parent's appeal, the parent's assigned errors, and an analysis of those assigned errors.

Before we discuss each appeal, we provide a brief description of the parties' relationships with each other and with the children involved.

II. PARTIES

This case is complex not only because of the number of parents and children involved, but also because of the somewhat complicated relationships between the parents and between the parents and the children. In an effort to explain the connection between all of the families involved in this case, we provide the following general background information:

Tonya is the mother of Stephanie, born in March 1995; Justin, born in March 1997; Nicholas, born in February 1999; Zachary, born in February 2002; Kiarra, born in June 2006; and Cian, born in August 2007.

Tonya was previously married to Jeffrey. Jeffrey is the father of Tonya's two oldest children, Stephanie and Justin. Tonya and Jeffrey divorced, and at the time of the termination hearing, Jeffrey was married to Carrie H. Jeffrey and Carrie have two children together, Ashley, born in June 2001, and Austin, born in October 2002. Carrie is not a party to this appeal, but she was a party to the proceedings below. There, the juvenile court determined that there was insufficient evidence to prove that termination of Carrie's parental rights was in the best interests of Ashley and Austin. No one appeals from this decision.

Tonya is currently in a relationship with Michael. At the time of the proceedings, Tonya and Michael lived together. Michael is the father of Tonya's two youngest children, Kiarra and Cian.

In an effort to clarify for the reader the connection between the families in this case, we provide the following table concerning the relationships between the parents and the children:

Child	**Age at Removal**	**Parents**
Stephanie	12	Tonya and Jeffrey
Justin	10	Tonya and Jeffrey
Nicholas	8	Tonya*
Zachary	5	Tonya*
Ashley	5	Jeffrey and Carrie
Austin	4	Jeffrey and Carrie
Kiarra	1	Tonya and Michael
Cian	(removed at birth)	Tonya and Michael

* The fathers of Nicholas and Zachary are not parties to this appeal, and they will not be discussed further.

We will separately discuss each party's appeal below. We begin by addressing the standard of review that applies to all three appeals.

III. STANDARD OF REVIEW

[1,2] Juvenile cases are reviewed de novo on the record, and an appellate court is required to reach a conclusion independent of the juvenile court's findings. *In re Interest of Jagger L.*,

270 Neb. 828, 708 N.W.2d 802 (2006). When the evidence is in conflict, however, an appellate court may give weight to the fact that the lower court observed the witnesses and accepted one version of the facts over the other. *Id.*

[3] For a juvenile court to terminate parental rights under Neb. Rev. Stat. § 43-292 (Reissue 2008), it must find that one or more of the statutory grounds listed in this section have been satisfied and that termination is in the child's best interests. See *In re Interest of Jagger L., supra*. The State must prove these facts by clear and convincing evidence. *Id.* Clear and convincing evidence is that amount of evidence which produces in the trier of fact a firm belief or conviction about the existence of a fact to be proven. *Id.*

IV. TONYA'S APPEAL

The juvenile court terminated Tonya's parental rights to her six children: Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian. Tonya appeals from this order. On appeal, she challenges both the statutory basis for termination of her parental rights and the juvenile court's finding that termination of her parental rights is in the children's best interests.

Upon our de novo review of the record, we conclude that there is clear and convincing evidence to demonstrate that all of the children have been in an out-of-home placement for 15 or more months of the most recent 22 months pursuant to § 43-292(7).

However, we also conclude that there is insufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Stephanie, Zachary, Kiarra, and Cian. As such, we reverse that portion of the juvenile court's order which terminated Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian.

We conclude that there is sufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Justin and Nicholas. We affirm that portion of the juvenile court's order which terminated Tonya's parental rights to Justin and Nicholas.

Below, we provide a table to make clear the children involved in Tonya's appeal and our resolution as to each child.

Child	Parents	Court of Appeals' Decision
Stephanie	Tonya and Jeffrey	Reversed and remanded
Justin	Tonya and Jeffrey	Affirmed
Nicholas	Tonya	Affirmed
Zachary	Tonya	Reversed and remanded
Kiarra	Tonya and Michael	Reversed and remanded
Cian	Tonya and Michael	Reversed and remanded

1. Background

Tonya's appeal involves her six children: Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian. The current juvenile court proceedings were initiated in June 2007. However, Tonya and her children have been involved with the juvenile court on multiple occasions since 1999. Because Tonya's history with the juvenile court is relevant to the current proceedings, as we will further explain below, we briefly recount that history here.

In 1999, Stephanie, Justin, and Nicholas were removed from Tonya's home for reasons that are not clear from the record. All three children were eventually placed with Jeffrey. Stephanie, Justin, and Nicholas were returned to Tonya's home in June 2004. In 2005, Stephanie, Justin, and Nicholas were removed from Jeffrey's home after allegations that Jeffrey had an alcohol problem and had engaged in domestic violence. Later that year, the children were returned to Tonya's home. In 2006, Stephanie, Justin, Nicholas, and Zachary were removed from Tonya's parents' home while they were watching the children. The children were returned to Tonya's home after only a few days.

In the current proceedings, Stephanie, Justin, Nicholas, Zachary, and Kiarra were removed from Tonya's care and placed in the custody of the Department of Health and Human Services (DHHS) in June 2007. At the time of the removal, Tonya shared custody of Stephanie and Justin with Jeffrey, and Justin was residing with Jeffrey and Carrie. Stephanie, Nicholas, Zachary, and Kiarra were residing with Tonya and Michael.

In August 2007, Cian was born. Cian was removed from Tonya's care immediately after his birth and placed in the custody of DHHS.

The State filed petitions alleging that all of the children were within the meaning of § 43-247(3)(a) (Cum. Supp. 2006) as to Tonya as a result of Justin's subjecting Nicholas to inappropriate sexual contact, Jeffrey's subjecting Justin to inappropriate sexual contact, Michael's subjecting the children to inappropriate physical contact, and Tonya's knowing of such inappropriate conduct and failing to protect the children from harm. The petitions also alleged that Tonya failed to provide the children with safe and stable housing.

In December 2007, Tonya admitted to the allegations in the petitions which alleged that Justin subjected Nicholas to inappropriate sexual contact and that she failed to protect the children. Tonya also admitted that the children were at risk for harm. The court dismissed the remaining allegations in the petition.

As a result of Tonya's admissions, the children were adjudicated to be within the meaning of § 43-247(3)(a) as to Tonya. Tonya was ordered to undergo a psychological evaluation, participate in individual therapy, complete a parenting class, maintain safe and adequate housing and a legal source of income, and be involved in the children's individual therapy. The court also ordered Tonya to participate in supervised visitation with the children.

On October 7, 2008, approximately 10 months after the children were adjudicated with respect to Tonya, the State filed a motion to terminate Tonya's parental rights to Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian. In the motion, the State alleged that termination of Tonya's parental rights was warranted pursuant to § 43-292(2), (6), and (7) as to Stephanie, Justin, Nicholas, Zachary, and Kiarra and that termination of her parental rights was warranted pursuant to § 43-292(2) and (6) as to Cian. In addition, the State alleged that termination of Tonya's parental rights was in the best interests of all six children.

On June 11, 2009, a hearing was held. This hearing pertained not only to the State's motion to terminate Tonya's parental rights, but also to the State's motion to terminate Jeffrey's parental rights to his children and to the State's petition alleging that Michael's children were within the meaning

of § 43-247(3)(a) (Reissue 2008) as to Michael. Because the hearing included evidence pertaining to all three parents, it was quite lengthy. The hearing continued on various dates during both June and October. The hearing concluded on November 2. The evidence presented at this hearing spans 17 volumes. We have reviewed this evidence in its entirety. However, we do not set forth a detailed recitation of the evidence presented here. Rather, we will set forth the evidence pertinent to Tonya and her children in our analysis below.

At the conclusion of the hearing, the juvenile court entered an order finding that the State proved by clear and convincing evidence that grounds for termination of Tonya's parental rights existed under § 43-292(2), (6), and (7). The court also found that it would be in the children's best interests to terminate Tonya's parental rights. The court then terminated Tonya's parental rights to Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian.

Tonya appeals from the juvenile court's order.

2. Assigned Errors

On appeal, Tonya alleges that the juvenile court erred in finding that termination of her parental rights is warranted pursuant to § 43-292(2), (6), and (7) and that termination of her parental rights is in the children's best interests.

3. Statutory Basis for Termination

Tonya asserts that the juvenile court erred in determining that termination of her parental rights is warranted pursuant to § 43-292(2), (6), and (7). Upon our review, we find that the evidence presented at the hearing clearly and convincingly demonstrates that all six of Tonya's children were in an out-of-home placement for at least 15 of the most recent 22 months, pursuant to § 43-292(7). As such, we need not specifically address whether or not the State met its burden under § 43-292(2) or (6).

[4] Termination of parental rights is warranted whenever one or more of the statutory grounds provided in § 43-292 are established. 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 Jagger L.*, 270 Neb. 828, 708 N.W.2d 802 (2006).

[5] Section 43-292(7) provides for termination of parental rights when "[t]he juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months." See, also, *In re Interest of Aaron D.*, 269 Neb. 249, 691 N.W.2d 164 (2005). Section 43-292(7) 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 Aaron D., supra*.

In this case, the State alleged and the court found that termination of Tonya's parental rights to Stephanie, Justin, Nicholas, Zachary, and Kiarra was warranted pursuant to § 43-292(2), (6), and (7). At the termination hearing, there was uncontradicted evidence which demonstrated that Stephanie, Justin, Nicholas, Zachary, and Kiarra were removed from Tonya's care in June 2007. By the time the State filed its motion to terminate Tonya's parental rights in October 2008, the five oldest children had been in an out-of-home placement for approximately 15 months. By the time the hearing began in June 2009, they had been in an out-of-home placement for 23 months, and by the time the hearing concluded in November, they had been in an out-of-home placement for 28 months.

The juvenile court also found that termination of Tonya's parental rights to Cian was warranted pursuant to § 43-292(7). However, in the motion to terminate Tonya's parental rights, the State did not make an allegation concerning § 43-292(7) as it related to Cian, because in October 2008, when the motion was filed, Cian had been in an out-of-home placement for only approximately 14 months. While Tonya's other children were removed in June 2007, Cian was removed in early August, immediately after his birth. Nevertheless, by the time the hearing began in June 2009, Cian had been in an out-of-home placement for 21 months, and by the time the hearing concluded in November, Cian had been in an out-of-home placement for 26 months.

As such, when the court found that termination of Tonya's parental rights to Cian was warranted pursuant to § 43-292(7), Cian had been in an out-of-home placement for well over 15 of the last 22 months. We cannot say that the court erred in finding that termination of Tonya's parental rights to Cian was warranted pursuant to § 43-292(7). We note that in Tonya's appeal, she does not specifically argue that the court erred in finding that § 43-292(7) applied to Cian because the State did not make such an allegation in the motion. Rather, she focuses her argument on whether she was provided with adequate tools to achieve reunification when the children were in an out-of-home placement. As we explained above, though, § 43-292(7) operates mechanically such that it becomes applicable whenever a child has been out of the home for 15 of the most recent 22 months.

In sum, all six of the children had been in an out-of-home placement for at least 26 months at the time the termination hearing concluded. There is no dispute that Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian were in an out-of-home placement for 15 or more months of the most recent 22 months as § 43-292(7) requires.

There is clear and convincing evidence that termination of Tonya's parental rights was appropriate pursuant to § 43-292(7). In light of this fact, we need not, and do not, further address the sufficiency of the evidence to demonstrate that such termination was also appropriate pursuant to § 43-292(2) or (6).

4. Best Interests

(a) Stephanie, Zachary, Kiarra, and Cian

Tonya asserts that the juvenile court erred in determining that termination of her parental rights is in the best interests of Stephanie, Zachary, Kiarra, and Cian. Specifically, she argues that she has taken substantial steps toward reunification with the children and that she should be given the opportunity to continue to make efforts toward that goal. Upon our review of the record, we find insufficient evidence to demonstrate that terminating Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian is in the children's best interests. We reverse

that portion of the juvenile court's order terminating Tonya's parental rights to these four children.

[6,7] 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. *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. *Id*. The law does not require perfection of a parent. See *id*. Instead, we should look for the parent's continued improvement in parenting skills and a beneficial relationship between parent and child. *Id.*

Evidence presented at the termination hearing revealed that Tonya complied with every court order, that she consistently attended visitation with her children, and that she exhibited appropriate parenting techniques during the visitations. The evidence also revealed that there is a beneficial relationship between Tonya and Stephanie, Zachary, Kiarra, and Cian.

Throughout the proceedings, the juvenile court ordered Tonya to undergo a psychological evaluation, participate in individual therapy, complete a parenting class, maintain safe and adequate housing and a legal source of income, and be involved in the children's individual therapy. The family's DHHS caseworker, Dawn Coffey, testified that Tonya complied with everything the juvenile court ordered her to do.

Evidence presented at the termination hearing revealed that Tonya submitted to two psychological evaluations. The first psychological evaluation occurred in September 2007. An updated evaluation, conducted by Dr. Glenda Cottam, occurred in August 2008. Dr. Cottam testified at the termination hearing that Tonya requires additional insight, education, and therapy to assist her in adequately parenting her children. Dr. Cottam opined that reunification with the children was not "probable in the future." This opinion appeared to be based almost entirely on Tonya's history with the juvenile court system.

Tonya participated in individual therapy. Her therapist testified that Tonya consistently attended the therapeutic sessions and that she made progress in dealing with her depression and anxiety and in better understanding how to establish

boundaries for the children. The therapist testified that Tonya needed to continue to attend therapy to address such issues as becoming independent and identifying healthy relationships.

At the time of the termination hearing, Tonya had acquired appropriate housing. In fact, Tonya's visitations with the children had been moved to her home in the months prior to the termination hearing.

Tonya was unable to maintain consistent employment. However, there was evidence in the record to demonstrate that Tonya made efforts toward finding consistent and appropriate employment. Tonya was employed at various times throughout the proceedings. It appears as though Tonya's efforts were hampered by the visitation schedule and by her other obligations under the court orders.

Tonya was involved with the children's therapy when such involvement was requested by the children's therapists. For example, Tonya worked with one of Zachary's therapists from August 2007 to April 2008. That therapist testified that she offered suggestions to Tonya about how to better interact with Zachary and then observed Tonya implementing those suggestions when Tonya was with Zachary. Tonya also worked with another of Zachary's therapists from June 2008 to the time of the termination hearing. That therapist testified that Tonya had admitted to making mistakes and had indicated that she wants to change. That therapist also testified that she had observed improvement in Tonya's parenting skills since June 2008.

It is not clear from the record whether Tonya worked with any of the other children's therapists. There was evidence that Tonya repeatedly requested that family therapy between her and the children be established by DHHS; however, Coffey testified that for various reasons, family therapy did not occur more than five times from 2007 through the time of the hearing.

Tonya was consistent in attending supervised visitation with the children. Numerous visitation workers testified they observed that Tonya exhibited appropriate parenting skills with the children. Such testimony indicated that Tonya is an "active participant" during visitation and that she is nurturing, patient,

attentive, and affectionate with the children. There was evidence that Tonya provides appropriate meals and clothing for the children and is receptive to the suggestions and advice of the visitation workers. All of the visitation workers testified that they did not have any safety concerns while Tonya was with the children.

In contrast to the testimony of the visitation workers, Coffey testified that Tonya was often overwhelmed during visitations because of the number of children present. She also testified that Tonya appears to understand the advice of visitation workers but that she struggles to put that advice into practice when the children are present. Coffey indicated that most of her testimony was not based on personal observations, but, rather, came from reports authored by visitation workers. She admitted that she did not personally attend many visits between Tonya and the children. Moreover, all of the visitation workers who testified indicated that Coffey never came to a visit when they were working.

Evidence presented at the termination hearing revealed that there is a strong bond between Tonya and the children. There was evidence that the children are very excited to see Tonya when they arrive for visitation and that they are sad to have to leave her. Stephanie's therapist testified that Stephanie would be "devastated" if her parents' parental rights were terminated.

Upon our review of the record, we find that a large part of the evidence presented at the hearing revealed that Tonya has made efforts toward reunification with her children and has demonstrated continued improvement in her parenting skills. While we acknowledge that there is evidence to the contrary, such evidence consists mostly of Coffey's testimony. Coffey admitted that most of her testimony was based on other people's reports and not on her personal observations. While we do not disregard Coffey's testimony in its entirety, we also recognize that her testimony was in direct contradiction to the testimony of other witnesses who observed Tonya and her children firsthand.

In the juvenile court's order, it noted Tonya's efforts toward reunification; however, it indicated that any improvement on

Tonya's part was "superficial." The court based this finding on Tonya's repeated involvement with the juvenile court system. The court specifically found that Tonya "shows a pattern of doing well when she is court involved, and reverting back to the same harmful patterns once there is no longer court involvement."

We agree that Tonya's past involvement with the juvenile court system is relevant to her ability to appropriately and effectively parent her children and, accordingly, relevant to the children's best interests. Contrary to the judgment of the juvenile court, however, we do not find such evidence to be dispositive in this situation. There is no evidence to suggest that the improvement Tonya has made during the pendency of these proceedings is in any way "superficial" in nature. Moreover, these proceedings are somewhat different from those in the previous cases involving Tonya, which seemingly came about due to Tonya's inability to care for her children and manage her household on a daily basis. Here, the proceedings were initiated, in part, due to Justin's inappropriate behavior toward Nicholas and Tonya's lack of knowledge about how to handle such a situation.

Based on all of the evidence presented at the termination hearing, we find that Tonya has made efforts toward reunification with her children and has demonstrated continued improvement in her parenting skills. We appreciate that Tonya still has work to do before achieving reunification. However, as we stated above, we do not require perfection of a parent when deciding whether termination of parental rights is appropriate.

We conclude that there is insufficient evidence to prove that termination of Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian is in those children's best interests. We reverse that portion of the juvenile court's order which terminated Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian.

(b) Justin

Tonya also asserts that the juvenile court erred in determining that termination of her parental rights is in Justin's best

interests. Upon our de novo review of the record, we find that Tonya is unable to provide Justin with the kind of structured, supervised environment that he desperately requires. As such, we conclude that termination of Tonya's parental rights to Justin is in his best interests.

These juvenile court proceedings were initiated as a result of reports that Justin had sexually assaulted his brother Nicholas and another young child. Justin has been receiving intensive therapy since the time of his removal in June 2007. At the termination hearing, Justin's therapist testified that Justin has made some progress, but that he continues to struggle with sexual issues. The therapist testified that Justin requires direct and constant supervision because he still poses a risk to other children. The therapist also testified that Justin requires a caregiver who understands and vigorously implements a safety plan. The therapist indicated that Justin needs to be the only child in the home. The therapist opined that it was in Justin's best interests to terminate Tonya's parental rights because she is unable to provide the environment Justin needs.

Other evidence presented at the hearing revealed that Justin is doing well at his current placement because there is a strict safety plan in place that permits Justin to have friends and interact with children his own age without putting Justin or other children at risk. There was also some indication in the record that Tonya is not able to adequately supervise Justin when all of the other children are present. There was evidence that during one visitation, Justin put Ashley, Jeffrey's daughter, on his lap and Tonya did not immediately correct this behavior. During a separate visitation, Justin went into another, unsupervised, room alone with Zachary.

Although we recognize that Tonya has made efforts toward reunification with her children and has made improvement in her parenting skills, we find that Tonya is simply unable to provide Justin with the strict, structured environment he requires. Justin would not be the only child in Tonya's home. As a result, it would be difficult, if not impossible, for Tonya to supervise Justin as closely as is required. Justin needs, and deserves, a home where he can thrive and work on his behavioral problems. Because Tonya cannot provide the strict,

structured environment Justin needs, we conclude that it would be in Justin's best interests to terminate Tonya's parental rights. We affirm that portion of the juvenile court's order which terminated Tonya's parental rights to Justin.

(c) Nicholas

Tonya asserts that the juvenile court erred in determining that termination of her parental rights is in Nicholas' best interests. Upon our de novo review of the record, we find that there is not a "beneficial relationship" between Tonya and Nicholas. See *In re Interest of Crystal C.*, 12 Neb. App. 458, 465, 676 N.W.2d 378, 384 (2004). As such, we conclude that termination of Tonya's parental rights to Nicholas is in his best interests.

Evidence presented at the termination hearing revealed that Nicholas was sexually assaulted by Justin and, as a result, suffers from serious behavioral problems. At the hearing, Nicholas' therapist testified that she had been Nicholas' therapist since December 2007. She testified that Nicholas suffers from anger issues and posttraumatic stress disorder. She indicated that Nicholas has made some progress during therapy, but she testified that it would be in Nicholas' best interests to terminate Tonya's parental rights. The therapist testified that Nicholas has said that he would like to be adopted and does not want to return to Tonya's home. Nicholas feels like Tonya treats him differently from the other children. The therapist indicated Nicholas heard Tonya say that she did not want him and that she would not fight for him. The therapist also indicated that Tonya would have him removed from visits with her and his siblings when he would misbehave. Coffey testified that Tonya had "grounded" Nicholas from one or more such visits.

There is some evidence in the record to corroborate Nicholas' feelings about Tonya. Coffey testified that Tonya indicated to her that she would relinquish her parental rights to Stephanie, Justin, and Nicholas if it meant she could have her three younger children back in her home. There is no indication about what precipitated this comment by Tonya or about why Tonya appeared to favor the other children over Nicholas.

Nicholas' therapist testified that Nicholas "will never thrive" in Tonya's home. We agree. The evidence presented at the hearing revealed that there is not a beneficial relationship between Tonya and Nicholas. We conclude that it is in Nicholas' best interests to terminate Tonya's parental rights. We affirm that portion of the juvenile court's order which terminated Tonya's parental rights to Nicholas.

5. Conclusion

Upon our de novo review of the record, we conclude that there is clear and convincing evidence to demonstrate that each of Tonya's children has been in an out-of-home placement for 15 or more months of the most recent 22 months pursuant to § 43-292(7).

However, we also conclude that there is insufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Stephanie, Zachary, Kiarra, and Cian. As such, we reverse that portion of the juvenile court's order which terminated Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian.

We conclude that there is sufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Justin and Nicholas. We affirm that portion of the juvenile court's order which terminated Tonya's parental rights to Justin and Nicholas.

V. JEFFREY'S CROSS-APPEAL

The juvenile court terminated Jeffrey's parental rights to his four children: Stephanie, Justin, Ashley, and Austin. Jeffrey cross-appeals from this order, challenging both the statutory basis for termination of his parental rights and the juvenile court's finding that termination of his parental rights is in the children's best interests.

Upon our de novo review of the record, we conclude that there is clear and convincing evidence to demonstrate that the children have been in an out-of-home placement for 15 or more months of the most recent 22 months pursuant to § 43-292(7).

However, we also conclude that there is insufficient evidence to demonstrate that termination of Jeffrey's parental rights is

in the best interests of Stephanie, Ashley, and Austin. As such, we reverse that portion of the juvenile court's order terminating Jeffrey's parental rights to Stephanie, Ashley, and Austin.

We conclude that there is sufficient evidence to demonstrate that termination of Jeffrey's parental rights is in the best interests of Justin. We affirm that portion of the juvenile court's order terminating Jeffrey's parental rights to Justin.

Below, we provide a table to make clear the children involved in Jeffrey's cross-appeal and our resolution as to each child.

Child	Parents	Court of Appeals' Decision
Stephanie	Tonya and Jeffrey	Reversed and remanded
Justin	Tonya and Jeffrey	Affirmed
Ashley	Jeffrey and Carrie	Reversed and remanded
Austin	Jeffrey and Carrie	Reversed and remanded

1. Background

Jeffrey's cross-appeal involves his four children: Stephanie, Justin, Ashley, and Austin. The current juvenile court proceedings were initiated in June 2007. However, Jeffrey and his children have been involved with the juvenile court on multiple occasions since 1999. Because Jeffrey's history with the juvenile court is relevant to the current proceedings, as we will further explain below, we briefly recount that history here.

In 1999, Jeffrey intervened in juvenile court proceedings after Stephanie, Justin, and Nicholas were removed from Tonya's home. As a part of that case, Jeffrey was granted custody of Stephanie and Justin and was given guardianship of Nicholas. In April 2004, Stephanie, Justin, Nicholas, Ashley, and Austin were removed from Jeffrey's home due to allegations of a dirty house. Two months later, in June, Stephanie, Justin, and Nicholas were placed with Tonya, and Ashley and Austin were returned to Jeffrey's home. In 2005, Stephanie, Justin, Nicholas, Ashley, and Austin were removed from Jeffrey's care due to allegations of alcohol abuse and domestic violence. Stephanie, Justin, and Nicholas were returned to Tonya's home and Ashley and Austin were returned to Jeffrey's home later that same year.

In the current proceedings, Stephanie, Justin, Ashley, and Austin were removed from Jeffrey's care and placed in the

custody of DHHS in June 2007. At the time of the removal, Jeffrey shared custody of Stephanie and Justin with Tonya, and Stephanie was residing with Tonya and Michael. Justin, Ashley, and Austin were residing with Jeffrey and Carrie.

The State filed petitions alleging that all of the children were within the meaning of § 43-247(3)(a) (Cum. Supp. 2006) as to Jeffrey as a result of Jeffrey's subjecting Justin to inappropriate sexual contact, Justin's subjecting Nicholas to inappropriate sexual contact, and Jeffrey's knowing of the inappropriate sexual contact between Justin and Nicholas and failing to protect the children from harm. The petition also alleged that Jeffrey failed to provide the children with safe and stable housing.

In December 2007, Jeffrey admitted to the allegations in the petition which alleged that Justin subjected Nicholas to inappropriate sexual contact and that Jeffrey failed to protect the children. Jeffrey also admitted that the children were at risk for harm. The court dismissed the remaining allegations in the petition.

As a result of Jeffrey's admissions, the children were adjudicated to be within the meaning of § 43-247(3)(a) as to Jeffrey. Jeffrey was ordered to undergo a psychological evaluation, participate in individual therapy, complete an anger management class, complete a parenting class, maintain safe and adequate housing and a legal source of income, and be involved in the children's individual therapy. The court also ordered Jeffrey to participate in supervised visitation with Stephanie, Ashley, and Austin and to participate in therapeutic visitation with Justin.

On October 7, 2008, approximately 10 months after the children were adjudicated with respect to Jeffrey, the State filed a motion to terminate Jeffrey's parental rights to Stephanie, Justin, Ashley, and Austin. In the motion, the State alleged that termination of Jeffrey's parental rights was warranted pursuant to § 43-292(2), (6), and (7). In addition, the State alleged that termination of Jeffrey's parental rights was in the best interests of the children.

As we discussed above, the hearing on the State's motion for termination of Jeffrey's parental rights began on June 11, 2009,

continued on various dates during both June and October, and concluded on November 2. We will set forth the evidence pertinent to Jeffrey and his children in our analysis below.

At the conclusion of the hearing, the juvenile court entered an order finding that the State proved by clear and convincing evidence that grounds for termination of Jeffrey's parental rights existed under § 43-292(2), (6), and (7). The court also found that it would be in the children's best interests to terminate Jeffrey's parental rights. The court then terminated Jeffrey's parental rights to Stephanie, Justin, Ashley, and Austin.

Jeffrey cross-appeals from the juvenile court's order.

2. Assigned Errors

On cross-appeal, Jeffrey alleges that the juvenile court erred in finding that termination of his parental rights is warranted pursuant to § 43-292(2), (6), and (7) and that termination of his parental rights is in the children's best interests.

3. Statutory Basis for Termination

Jeffrey asserts that the juvenile court erred in determining that termination of his parental rights is warranted pursuant to § 43-292(2), (6), and (7). Upon our review, we find that the evidence presented at the hearing clearly and convincingly demonstrates that all four of Jeffrey's children were in an out-of-home placement for at least 15 of the most recent 22 months, pursuant to § 43-292(7). As such, we need not specifically address whether or not the State met its burden under § 43-292(2) or (6).

As we discussed more thoroughly above, termination of parental rights is warranted whenever one or more of the statutory grounds provided in § 43-292 are established. Section 43-292(7) provides for termination of parental rights when "[t]he juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months." See, also, *In re Interest of Aaron D.*, 269 Neb. 249, 691 N.W.2d 164 (2005).

In this case, the State alleged and the court found that termination of Jeffrey's parental rights was warranted pursuant to § 43-292(2), (6), and (7). At the hearing, there was uncontradicted evidence which demonstrated that Stephanie,

Justin, Ashley, and Austin were removed from parental custody in June 2007. By the time the State filed its motion to terminate Jeffrey's parental rights in October 2008, all four of the children had been in an out-of-home placement for approximately 15 months. By the time the hearing began in June 2009, the children had been in an out-of-home placement for 23 months, and by the time the hearing concluded in November, the children had been in an out-of-home placement for 28 months. As such, there is no dispute that Stephanie, Justin, Ashley, and Austin were in an out-of-home placement for 15 or more months of the most recent 22 months as § 43-292(7) requires.

There is clear and convincing evidence that termination of Jeffrey's parental rights was appropriate pursuant to § 43-292(7). In light of this fact, we need not, and do not, further address the sufficiency of the evidence to demonstrate that such termination was also appropriate pursuant to § 43-292(2) or (6).

4. Best Interests

(a) Stephanie, Ashley, and Austin

Jeffrey asserts that the juvenile court erred in determining that termination of his parental rights is in the best interests of Stephanie, Ashley, and Austin. Specifically, he argues that he has taken substantial steps toward reunification with the children and that he should be given the opportunity to continue to make efforts toward that goal. Upon our review of the record, we find insufficient evidence to demonstrate that terminating Jeffrey's parental rights to Stephanie, Ashley, and Austin is in the children's best interests. We reverse that portion of the juvenile court's order terminating Jeffrey's parental rights to these three children.

As we discussed above, a termination of parental rights is a final and complete severance of the child from the parent. See *In re Interest of Crystal C.*, 12 Neb. App. 458, 676 N.W.2d 378 (2004). As such, termination of parental rights is appropriate only in the absence of any reasonable alternative and as the last resort. See *id.* The law does not require perfection of a parent. See *id*. Instead, the focus should be on the parent's continued

improvement in parenting skills and a beneficial relationship between parent and child. See *id.*

Evidence presented at the termination hearing revealed that Jeffrey complied with every court order, that he consistently attended visitation with his children, and that he exhibited appropriate parenting techniques during the visitations. The evidence also revealed that there is a beneficial relationship between Jeffrey and Stephanie, Ashley, and Austin.

Throughout the proceedings, the juvenile court ordered Jeffrey to undergo a psychological evaluation, participate in individual therapy, complete an anger management class, complete a parenting class, maintain safe and adequate housing and a legal source of income, and be involved in the children's individual therapy. Coffey testified that Jeffrey complied with everything the juvenile court ordered him to do.

Evidence presented at the hearing revealed that Jeffrey submitted to multiple mental health examinations. In July 2007, Jeffrey submitted to a psychiatric evaluation. The psychiatrist who conducted the evaluation testified that at the time of the evaluation, Jeffrey had limited insight into his problems. The psychiatrist indicated that Jeffrey could make progress if provided the right tools. At the time of the evaluation, the psychiatrist recommended that Jeffrey participate in therapy.

In December 2007 and July 2008, Jeffrey submitted to psychological evaluations and parenting assessments with Dr. Cottam, who testified at the hearing that she had concerns about the length of time Jeffrey had been in therapy and about whether he was making any progress. She testified that she observed Jeffrey interact with the children and that Jeffrey was able to keep order during his time with the children. However, Dr. Cottam indicated that she had concerns because Jeffrey made unrealistic promises to the children and had difficulty with discipline and structure.

Jeffrey participated in individual therapy throughout the duration of these proceedings. In fact, Jeffrey was participating in therapy prior to June 2007, when the children were removed from his home. Jeffrey's therapist at that time testified that she began providing therapy to Jeffrey in March 2006 and that she had been involved in Jeffrey's life through 2008. She testified

that prior to the removal, she assisted Jeffrey and the rest of the family with creating a safety plan due to Justin's sexual problems. She testified that Jeffrey has made "therapeutic progress." She described Jeffrey as a "[v]ery positive, very caring, very intuitive" parent. She testified that Jeffrey has insight into his children's needs. She indicated that she does not believe that Jeffrey's parental rights should be terminated.

Jeffrey has an additional therapist who, at the time of the termination hearing, had been Jeffrey's therapist for approximately 2 years. As early as May 2008, she had recommended that Jeffrey's children be returned to his home. By December, she had indicated in a report that Jeffrey had accomplished all of his treatment goals. She did not successfully discharge Jeffrey at that time only because the juvenile court required Jeffrey to continue with therapy. She testified at the hearing that Jeffrey has made "substantial progress." She testified that she has no concerns whatsoever about returning the children to his home. She testified that Jeffrey understands the needs and limitations of his children and puts his children first. She described him as an "excellent parent" who demonstrates consistency, caring, and protection. She testified that she did not agree with Dr. Cottam's assessment of Jeffrey.

At the time of the hearing, Jeffrey had appropriate housing. In fact, Coffey testified that housing was not an issue because Jeffrey had always had housing for the children. There was evidence that Jeffrey is currently working on renovating his house to better accommodate the children's needs.

Coffey also testified that Jeffrey has been consistently employed throughout the duration of the proceedings. At various times, Jeffrey accepted work in Texas when he was not able to find work in Nebraska. Jeffrey understood that this was not an ideal situation, but he wanted to be able to support his family. There was evidence that when Jeffrey was away, he always called the children during his scheduled visitation time, and that he called his therapist to conduct their regularly scheduled sessions.

Jeffrey was involved with the children's therapy when such involvement was requested by the children's therapists. Jeffrey worked with one of Ashley and Austin's therapists.

That therapist testified that both children appeared bonded with Jeffrey and indicated that she did not have any concerns with Jeffrey's parenting during family therapy sessions. It is not clear from the record whether Jeffrey worked with Stephanie's therapist.

Jeffrey was also involved in the children's activities and appointments. There was evidence that Jeffrey attended school meetings and attended the majority of the children's doctor's appointments. There was evidence that Ashley has a speech impairment and that Jeffrey went to great lengths to obtain a computer to assist Ashley in her communication skills.

Jeffrey was consistent in attending supervised visitation with the children. Although Jeffrey was working out of town during various periods of time, he telephoned the children during each scheduled visitation session. The conversations were monitored by the visitation workers. Numerous witnesses testified they observed that Jeffrey exhibited appropriate parenting skills during the visitation sessions. Such testimony revealed that Jeffrey was an active parent who understood his children's needs. He played educational games with the children and worked with them on their homework. He provided nutritional meals. He did not have a problem appropriately disciplining the children or maintaining order at the visits. Jeffrey was described as a nurturing, effective, and overall "good" parent.

In contrast to this testimony, Coffey testified that Jeffrey does not follow through with the instructions and suggestions of the visitation workers. She also testified that Jeffrey has exhibited anger at the visits and would spend time talking on his telephone rather than interacting with the children. Coffey admitted that she did not personally attend many visits between Jeffrey and the children. Moreover, all of the visitation workers who testified indicated that Coffey never came to a visit when they were working.

Evidence presented at the hearing revealed that there is a strong bond between Jeffrey and Stephanie, Ashley, and Austin. There was evidence that the children are very excited to see Jeffrey when they arrive for visitation and that they are sad to have to leave him. Although Stephanie's therapist testified that Stephanie is not always clear about her feelings for Jeffrey, the

therapist opined that Stephanie would be "devastated" if her parents' parental rights were terminated.

Upon our review of the record, we find that a large part of the evidence presented at the hearing revealed that Jeffrey has made efforts toward reunification with his children and has demonstrated continued improvement in his parenting skills. While we acknowledge that there is evidence to the contrary, such evidence consists mostly of Coffey's testimony. Coffey admitted that most of her testimony was based on other people's reports and not on her personal observations. While we do not disregard Coffey's testimony in its entirety, we also recognize that her testimony was in direct contradiction to the testimony of other witnesses who observed Jeffrey and his children firsthand.

In the juvenile court's order, it noted Jeffrey's efforts; however, it indicated that any improvement on his part was only "superficial." The court based this finding on Jeffrey's repeated involvement with the juvenile court system. The court specifically found that Jeffrey "shows a pattern of doing well when he is court involved, and reverting back to the same harmful patterns once there is no longer court involvement."

As we noted in Tonya's appeal concerning her court involvement and parenting ability, we agree that evidence of past involvement with the juvenile court system is relevant to Jeffrey's ability to appropriately and effectively parent his children and, accordingly, relevant to the children's best interests. However, we do not find such evidence to be dispositive in this situation. There is no evidence to suggest that the improvement Jeffrey has made during the pendency of these proceedings is in any way "superficial" in nature.

Based on all of the evidence presented at the termination hearing, we find that Jeffrey has made significant efforts toward reunification with his children and has demonstrated continued improvement in his parenting skills. We appreciate that Jeffrey still has work to do before achieving reunification. However, as we stated above, we do not require perfection of a parent when deciding whether termination of parental rights is appropriate.

We conclude that there is insufficient evidence to prove that termination of Jeffrey's parental rights to Stephanie, Ashley, and Austin is in those children's best interests. We reverse that portion of the juvenile court's order which terminated Jeffrey's parental rights to Stephanie, Ashley, and Austin.

(b) Justin

Jeffrey also asserts that the juvenile court erred in determining that termination of his parental rights is in Justin's best interests. Upon our de novo review of the record, we find that Jeffrey is unable to provide Justin with the kind of structured, supervised environment that he desperately requires. As such, we conclude that termination of Jeffrey's parental rights is in Justin's best interests.

As we discussed more thoroughly above, Justin continues to struggle with sexual issues. He requires direct and constant supervision because he continues to pose a risk to other children. Justin's therapist testified that Justin requires a caregiver who understands and vigorously implements a safety plan. The therapist indicated that Justin needs to be the only child in the home. The therapist opined that it was in Justin's best interests to terminate Jeffrey's parental rights because Jeffrey is unable to provide the environment Justin needs.

Upon our review of the record, we conclude that termination of Jeffrey's parental rights is in Justin's best interests for the same reasons that termination of Tonya's parental rights is in Justin's best interests. Despite Jeffrey's efforts, he is simply unable to provide Justin with the strict, structured environment he requires. Justin would not be the only child in Jeffrey's home. As a result, it would be difficult, if not impossible, for Jeffrey to supervise Justin as closely as is required. Justin needs, and deserves, a home where he can thrive and work on his behavioral problems. We affirm that portion of the juvenile court's order which terminated Jeffrey's parental rights to Justin.

5. Conclusion

Upon our de novo review of the record, we conclude that there is clear and convincing evidence to demonstrate that each

of Jeffrey's children has been in an out-of-home placement for 15 or more months of the most recent 22 months pursuant to § 43-292(7).

However, we also conclude that there is insufficient evidence to demonstrate that termination of Jeffrey's parental rights is in the best interests of Stephanie, Ashley, and Austin. As such, we reverse that portion of the juvenile court's order terminating Jeffrey's parental rights to Stephanie, Ashley, and Austin.

We conclude that there is sufficient evidence to demonstrate that termination of Jeffrey's parental rights is in the best interests of Justin. We affirm that portion of the juvenile court's order terminating Jeffrey's parental rights to Justin.

VI. MICHAEL'S CROSS-APPEAL

After the hearing, the juvenile court entered an order adjudicating Michael's two children, Kiarra and Cian, as being within the meaning of § 43-247(3)(a) (Reissue 2008) as to Michael. Michael cross-appeals from this order, challenging the sufficiency of the evidence to prove that the children are within the meaning of § 43-247(3)(a) as to Michael. Upon our de novo review of the record, we conclude that the evidence presented at the adjudication hearing was insufficient to warrant a finding that Kiarra and Cian were within the meaning of § 43-247(3)(a) as to Michael. We reverse the juvenile court's order.

Below, we provide a table to make clear the children involved in Michael's cross-appeal and our resolution as to each child.

Child	Parents	Court of Appeals' Decision
Kiarra	Tonya and Michael	Reversed and remanded
Cian	Tonya and Michael	Reversed and remanded

1. Background

Kiarra was removed from Michael and Tonya's home in June 2007. Cian was removed immediately after his birth in August. At the time of the children's removal, the State did not file a petition alleging any fault on Michael's part. As such, Michael was initially not a party to those juvenile court proceedings.

Michael filed a motion to intervene in the proceedings in September 2007. The juvenile court granted the motion in October. Sometime after Michael was permitted to intervene in the case, supervised visitation between Michael and the children was scheduled.

From November 2007 to June 2008, Michael did not consistently attend his scheduled visitation with the children. Michael attended approximately six visits during this time period.

Beginning in June 2008, Michael consistently attended his scheduled visitation. Around this same time, Michael began to attend individual therapy. He also voluntarily submitted to a psychological examination and a chemical dependency evaluation. In addition, Michael began weekly drug testing.

In October 2008, the State filed a petition alleging that Kiarra and Cian were within the meaning of § 43-247(3)(a) as to Michael because he failed to consistently attend visitation, provide safe and suitable housing, provide emotional support, and utilize the services offered by DHHS. The State alleged that Michael's actions put the children at risk for harm.

In that same petition, the State motioned for termination of Michael's parental rights. The State alleged that Kiarra and Cian were within the meaning of § 43-292(2), that Kiarra was within the meaning of § 43-292(7), and that termination of Michael's parental rights was in Kiarra's and Cian's best interests.

A hearing was held on these allegations by the State at the same time as the hearing concerning the State's motions to terminate Tonya's and Jeffrey's parental rights to their children. We will set forth the evidence pertinent to Michael, Kiarra, and Cian in our analysis below.

At the close of the hearing, the juvenile court entered an order adjudicating Kiarra and Cian to be children within the meaning of § 43-247(3)(a) as to Michael. The court found insufficient evidence to support the remaining allegations in the State's petition and did not terminate Michael's parental rights to Kiarra and Cian. The court noted the "substantial progress" Michael had made during the pendency of the proceedings.

Michael cross-appeals from the juvenile court's order.

2. Assigned Errors

On cross-appeal, Michael challenges the sufficiency of the evidence to prove that Kiarra and Cian are within the meaning of § 43-247(3)(a) as to Michael.

3. Insufficient Evidence to Support Adjudication

Michael argues that the juvenile court erred in finding that Kiarra and Cian were within the meaning of § 43-247(3)(a) as to Michael. Specifically, he alleges that the State failed to meet its burden of proof at the adjudication hearing.

Section 43-247(3)(a) grants the juvenile court jurisdiction over any juvenile

> who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such juvenile.

[8,9] To obtain jurisdiction over a juvenile, the court's only concern is whether the conditions in which the juvenile presently finds himself or herself fit within the asserted subsection of § 43-247. *In re Interest of Brian B. et al.*, 268 Neb. 870, 689 N.W.2d 184 (2004). At the adjudication stage, in order for a juvenile court to assume jurisdiction of minor children under § 43-247(3)(a), the State must prove the allegations of the petition by a preponderance of the evidence. *In re Interest of Rebekah T. et al.*, 11 Neb. App. 507, 654 N.W.2d 744 (2002). See *In re Interest of B.R. et al.*, 270 Neb. 685, 708 N.W.2d 586 (2005).

In this case, the State alleged that Kiarra and Cian lacked proper parental care because Michael failed to consistently attend visitation, provide safe and suitable housing, provide emotional support, and utilize the services offered by DHHS. The State alleged that Michael's actions put the children at risk for harm. Upon our de novo review of the record, we find that the State did not present sufficient evidence to prove the allegations in the petition by a preponderance of the evidence.

Evidence presented at the adjudication hearing revealed that Michael consistently attended visitations with Kiarra and Cian beginning in June 2008, that he appropriately parented them during those visitations, that he had acquired appropriate housing, and that he voluntarily participated in services offered by DHHS.

In approximately November 2007, Michael was initially provided with the opportunity to attend supervised visitation with Kiarra and Cian. Michael was not consistent in his attendance at visitations at that time. In fact, between November 2007 and June 2008, he attended only six visits with Kiarra and Cian. However, beginning in June 2008, Michael attended every visitation with them. Michael continued to consistently attend visitations through the end of the hearing in November 2009. Coffey testified that Michael has been consistent in attending visitations since June 2008 and that visitations are going well.

Numerous visitation workers testified about Michael's parenting during the visitation sessions. Such testimony revealed that Michael interacted appropriately with the children and that he was nurturing, attentive, and affectionate. Michael provides the children with age-appropriate toys, games, and books and provides nutritious meals. The visitation workers classified Michael as a "good parent" who was consistent and capable of taking care of the children. The visitation workers testified that they never had any safety concerns when Michael was with the children.

Evidence presented at the hearing revealed that Michael obtained appropriate housing during the pendency of these proceedings. At the time of the hearing, he had lived in his

home for over a year. The house was clean and appropriate for the children. In fact, in the months preceding the hearing, visitations between Michael and the children were held in Michael's home.

Michael voluntarily participated in services offered by DHHS. Michael submitted to a psychological evaluation and a chemical dependency evaluation. He started individual therapy in April 2008. He has been consistent in his attendance at therapy and has made progress. Michael's therapist testified that Michael is doing well in therapy. The therapist indicated that at the time of the adjudication hearing, Michael was employed, had obtained appropriate housing, and had demonstrated the skills and the desire to be a good parent to his children. The therapist testified that there was some concern about Michael's use of marijuana but indicated that Michael is currently receiving drug and alcohol education during his therapeutic sessions. In addition, Michael has submitted to weekly drug testing. At the time of the hearing, Michael had not had a positive test in the last 6 or 7 months.

Based on the evidence presented at the hearing, we find that the State did not present sufficient evidence to prove the allegations in the petition by a preponderance of the evidence. Michael had consistently attended visitation with Kiarra and Cian for approximately 17 months. The last time he missed a visit was in June 2008, more than a year prior to the hearing. Michael has demonstrated that he is capable of parenting his children. He has acquired appropriate housing, and he has voluntarily participated in the services offered by DHHS. There is no evidence that Michael's current actions have created a risk of harm to Kiarra and Cian. Accordingly, we reverse the juvenile court's order which adjudicated Kiarra and Cian to be within the meaning of § 43-247(3)(a) as to Michael.

4. Conclusion

We find that the State did not present sufficient evidence to prove the allegations in the petition by a preponderance of the evidence. We reverse the juvenile court's order which adjudicated Kiarra and Cian to be within the meaning of § 43-247(3)(a) as to Michael.

VII. CONCLUSION

As to Tonya's appeal, we conclude that there is sufficient evidence to warrant termination of Tonya's parental rights to Stephanie, Justin, Nicholas, Zachary, Kiarra, and Cian pursuant to § 43-292(7). However, we find insufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Stephanie, Zachary, Kiarra, and Cian. We find sufficient evidence to demonstrate that termination of Tonya's parental rights is in the best interests of Justin and Nicholas. As such, we affirm that portion of the juvenile court's order terminating Tonya's parental rights to Justin and Nicholas. We reverse that portion of the juvenile court's order terminating Tonya's parental rights to Stephanie, Zachary, Kiarra, and Cian. We remand the case for further proceedings consistent with this opinion.

As to Jeffrey's cross-appeal, we conclude that there is sufficient evidence to warrant termination of Jeffrey's parental rights to Stephanie, Justin, Ashley, and Austin pursuant to § 43-292(7). However, we find insufficient evidence to demonstrate that termination of Jeffrey's parental rights is in the best interests of Stephanie, Ashley, and Austin. We find sufficient evidence to demonstrate that termination of Jeffrey's parental rights is in the best interests of Justin. As such, we affirm that portion of the juvenile court's order terminating Jeffrey's parental rights to Justin. We reverse that portion of the juvenile court's order terminating Jeffrey's parental rights to Stephanie, Ashley, and Austin. We remand the case for further proceedings consistent with this opinion.

As to Michael's cross-appeal, we find that the State did not present sufficient evidence to prove the allegations in the petition by a preponderance of the evidence. Accordingly, we reverse the juvenile court's order which adjudicated Kiarra and Cian to be within the meaning of § 43-247(3)(a) as to Michael. We remand the case for further proceedings consistent with this opinion.

AFFIRMED IN PART, AND IN PART REVERSED AND REMANDED.