

IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

IN RE INTEREST OF JUSTYCE J.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. OF PRAC. 2E.

IN RE INTEREST OF JUSTYCE J., A CHILD UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

DAWN S., APPELLANT.

Filed February 26, 2008. No. A-07-878.

INBODY, Chief Judge, and IRWIN and CASSEL, Judges.

IRWIN, Judge.

I. INTRODUCTION

Dawn S. appeals from an order terminating her parental rights to Justyce J. On appeal, Dawn contends, inter alia, that the trial court erred in finding clear and convincing evidence to terminate her parental rights under Neb. Rev. Stat. § 43-292(2), (8), and (9) (Reissue 2004) and in finding clear and convincing evidence to show that termination of her rights is in Justyce's best interests. We find sufficient evidence to support the termination of Dawn's parental rights to Justyce, and we affirm.

II. BACKGROUND

Dawn is the mother of Justyce, born August 11, 2006. On November 14, 2006, the State filed a petition in juvenile court alleging that Justyce came within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Cum. Supp. 2006) by reason of the faults or habits of Dawn. On that same day, the State also filed a motion for temporary custody. The State asserted that placement and detention of Justyce was a matter of immediate and urgent necessity because Justyce had been taken to a hospital with injuries which doctors believed were indicative of child abuse. The court granted this motion.

On November 16, 2006, the State filed an amended petition alleging that Justyce came within the meaning of § 43-247(3)(a) by reason of the faults or habits of both Dawn and Justyce's biological father, Brian J.

On January 10, 2007, the State filed a second amended petition alleging that pursuant to § 43-247(3)(a), Dawn and Brian placed Justyce in a situation which was “dangerous to his life or limb, or injurious to [his] health or morals” in that on November 12, 2006, medical personnel at Children’s Hospital observed Justyce to have broken ribs, which had signs of healing. The petition also alleged that while treating Justyce, medical personnel discovered Justyce to have two cerebral bleeds of differing ages, and that medical personnel indicated these injuries were indicative of child abuse. The petition stated that Justyce was in Dawn and Brian’s care at the time the injuries occurred and that neither parent had provided a plausible explanation for Justyce’s injuries.

The second amended petition also alleged that Dawn’s and Brian’s parental rights to Justyce should be terminated. In that regard, the petition alleged Justyce came within the meaning of § 43-292(2), (8), and (9) in that Dawn and Brian had substantially and continuously or repeatedly neglected and refused to give Justyce necessary parental care and protection; had inflicted upon Justyce, by other than accidental means, serious bodily injury; and had subjected Justyce to aggravated circumstances including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse. The petition also alleged that termination of Dawn’s and Brian’s parental rights was in the best interests of Justyce.

On April 30, May 3 and 4, June 12 and 26, and July 10, 2007, hearings were held on the State’s second amended petition. The record from these hearings shows that on November 9, 2006, Dawn came home from work and observed that Justyce was not feeling well. She reported that Justyce was vomiting and had a fever. The next day, Justyce was still not feeling well and Brian and Dawn took him to Immanuel Medical Center. Doctors told them that Justyce had some type of virus, gave him some medication, and sent him home. On November 11, Dawn observed that Justyce was still vomiting, running a fever, and not eating much. She took Justyce to Children’s Hospital. There, doctors took x rays of Justyce’s abdomen and told Dawn it appeared that Justyce had a virus. Doctors then sent Dawn and Justyce home. When doctors subsequently reviewed the x rays of Justyce’s abdomen, they observed that he had multiple rib fractures on the right side of his body. Based on the x rays, doctors believed that the fractures were approximately 14 to 21 days old.

Doctors attempted to contact Dawn and Brian, but no one answered the telephone at their house. Doctors then contacted law enforcement officials, who went to the house to notify Dawn and Brian that they needed to bring Justyce back to the hospital for further testing. Upon completing further tests, doctors discovered that Justyce had four rib fractures and that there was evidence of previous hemorrhaging in Justyce’s brain in two different locations. Doctors referred to Justyce’s brain injuries as subdural hematomas. Additional tests also revealed that Justyce suffered from a metabolic bone disease commonly referred to as rickets. A person suffering from rickets has a reduced level of calcium in their body which may affect bone development, the strength of bones, and the healing of bones.

Police officers questioned Dawn and Brian about what might have happened to Justyce. Dawn told officers she had observed Brian throwing Justyce in the air and catching him. She also reported that Justyce had recently fallen on the couch and that her 5-year-old son had tried to pick up Justyce and had dropped him approximately 6 to 12 inches. Brian also reported to officers that Dawn’s 5-year-old son had tried to pick up Justyce and had dropped him. He also

suggested that his 10-year-old son may have injured Justyce when playing with him, but he was unable to provide any specific information. Brian also mentioned that Justyce could have been injured while his babysitter was watching him. However, Brian confirmed that the babysitter stopped caring for Justyce prior to the time period when the injuries would have occurred. Criminal charges were never brought against Dawn or Brian.

At the hearings on the State's second amended petition, the State called several witnesses to testify, including Dr. Phillip Silberberg, a radiologist at Children's Hospital. Silberberg testified that it is very unusual to see fractures in a child who is under 6 months old. Silberberg testified that upon examining the results of the x rays taken of Justyce's abdomen on November 11, he noted there was a healing fracture on Justyce's lower right ribs. Silberberg testified that additional testing was completed on Justyce which revealed the presence of four rib fractures on Justyce's right side. He testified that all four of the fractures were approximately 14 to 21 days old. Silberberg also testified that Justyce's tests revealed abnormalities with his bones, which suggested that he suffered from a metabolic bone disease called rickets. Silberberg testified that it is unusual for a small child with rickets to have fractures, but that it does occur.

Silberberg testified that the results of Justyce's MRI revealed evidence of previous hemorrhaging in two different locations in Justyce's brain. He testified that this is an abnormal finding in a 3-month-old child and that usually this kind of injury in a young child is associated with a car accident, a fall from a balcony, or an assault. Silberberg testified that it appeared from the nature of the injury that Justyce's head trauma was the result of someone shaking him. Silberberg testified that based on the location of the two hemorrhages, they were each caused by a separate incident. He testified that one injury was 3 to 7 days old and one was 7 to 10 days old. Silberberg testified that he has never had a patient with rickets who has also presented with a subdural hematoma.

Silberberg testified that it was his opinion that Justyce suffered from intentionally inflicted injuries and that Justyce had experienced two or three such instances of abuse.

Dr. Horatio Plotkin, the director of the Metabolic Bone Diseases Clinic at Children's Hospital, also testified at the hearings. He testified that he analyzed tests conducted on Justyce regarding his bone density and development and that those tests revealed that Justyce was suffering from rickets. He also testified that it is unusual for children who present with rickets to also present with fractures. He testified, "It is unusual. It's possible, but unusual." Plotkin also testified that, in theory, rickets may affect the healing process when bones are broken, but that he was not familiar with any studies which have shown that to be true.

Plotkin testified that Dawn and Brian asked him if it was possible that certain games or play could have caused Justyce's rib fractures. He testified that Dawn and Brian specifically asked him if throwing Justyce in the air and catching him could have caused the fractures. Plotkin testified that "it is in the realm of possibility" that such activity could have caused the rib fractures.

Plotkin also testified that he has never had a patient with rickets who has also presented with subdural hematomas. Plotkin testified that in his opinion, to a reasonable degree of medical certainty, it is unlikely that the subdural hematomas that occurred in Justyce's brain were related to the fact that he also had rickets.

Dr. Patrick Doherty testified next. Doherty testified that he is employed by Children's Hospital as a hospitalist and that he cares for patients after they are admitted to the hospital. Doherty testified that he treated Justyce after he was admitted to Children's Hospital in November 2006. Doherty testified that even though children with rickets have thinner bones which may break more easily than in a child without rickets, breaking the bones of a child with rickets would still require some significant force. He also testified that it would require a significant amount of force to create the two subdural hematomas found in Justyce's head.

Doherty testified that Dawn and Brian provided a few possible explanations for Justyce's injuries including, that Justyce's 5-year-old brother may have dropped him; that Justyce's older brother may have struck Justyce in the head with a soft ball when he was playing near Justyce; and that Brian tossed Justyce in the air and caught him. Doherty testified that he did not believe that any of these explanations were a plausible source of Justyce's injuries. He testified that the head injuries, in particular, would require the kind of force equal to a fall from at least 5, if not 8, feet onto a hard surface. Doherty testified that a 3-month-old child should not sustain these kinds of injuries with normal care. He testified that in his opinion, the kind of force required to produce Justyce's injuries amounted to child abuse.

Dr. Jeffrey DeMare, an attending physician in the pediatric intensive care unit and the medical director of the Children's Advocacy Team at Children's Hospital, also gave testimony. DeMare testified that he found it suspicious that Justyce was presenting with both rib fractures and head injuries. He testified that after learning that Justyce had rickets, his suspicions remained because rickets did not cause Justyce's rib fractures. He testified that it would be unusual for a child with rickets to have rib fractures. However, DeMare also testified that he could not say with absolute certainty that Justyce's rib fractures were not somehow related to the rickets diagnosis. He testified that Dawn could not provide a plausible explanation for Justyce's rib fractures.

DeMare also testified about his concerns regarding Justyce's head injuries. He testified that it would take more than the amount of force that would be seen in routine care to cause a subdural hematoma in a child who was under 6 months of age. DeMare testified that while it was theoretically possible that if Brian threw Justyce in the air with enough force to have his head snap back that it may have caused the injuries to his head, but that "anyone witnessing it would be horrified."

DeMare testified that in his opinion, Justyce's injuries are consistent with child abuse. He also testified that it is possible that a caregiver who did not know about the abuse might not have known that Justyce was in pain. He said, "It would not be unreasonable that a nonoffending caregiver could care for the child. They would appear more fussy, not want to be handled, and yet not – and not figure out that something was wrong."

Jennifer Hoppe testified that she was a protection and safety worker with the Nebraska Department of Health and Human Services (DHHS). Hoppe testified that Justyce was assigned to her caseload in November 2006. Hoppe testified that she spoke with both Dawn and Brian and that both parents told her that they did not know how Justyce's injuries occurred. She also testified that Dawn informed her that, after learning about Justyce's injuries, she had asked Brian to leave their home.

Hoppe testified that she was not able to come to a conclusion as to who harmed Justyce and that this affected her ability to provide services to both parents. She testified that she did provide referrals for both parents to have supervised visits with Justyce. Hoppe testified that, initially, she allowed Dawn to have more visitation time than she allowed Brian based on the need for Dawn to continue bonding with Justyce because of his young age; on reports that Dawn was observed to be extremely appropriate in her interactions with Justyce at the hospital; on indications that Dawn was the one who sought treatment for Justyce; and on law enforcement officials' reports that Dawn was being cooperative with their investigation.

Hoppe testified that she also provided a referral for Dawn to complete a pretreatment assessment. She testified that after receiving the results of Dawn's assessment, she provided a referral to Dawn for individual therapy. Hoppe also testified that she was subsequently notified by Dawn's therapist that Dawn had failed to show up for three consecutive appointments and that the therapist had dropped her as a client.

Hoppe opined that Dawn's and Brian's parental rights should be terminated and that termination is in Justyce's best interests based on the severity of Justyce's injuries and evidence that the injuries occurred on more than one occasion. Hoppe testified that she was unable to identify any kind of rehabilitation plan or safety services that would allow Justyce to go home because she had no idea who caused his injuries; no idea whom to provide services to; no idea what the basis of those services would be; and no idea what issues needed to be addressed.

Finally, the State called Sgt. Jeffrey Chubb of the Omaha Police Department to testify. Chubb testified that he investigated Justyce's injuries. He testified that he spoke with Dawn and Brian about how these injuries occurred, but that neither parent was able to provide a plausible explanation for Justyce's injuries. Chubb also testified that through his investigation, he was able to exclude everyone but Dawn and Brian as individuals who could have injured Justyce.

Over Dawn's objection, Chubb testified that he believed that Justyce would be at risk for further harm if he was returned to Dawn or Brian because neither parent could be ruled out as the person who hurt Justyce. He also testified, over Dawn's objection, that it would be in Justyce's best interests to terminate Dawn's and Brian's parental rights.

After the State presented its case, Dawn called two witnesses to testify on her behalf. Amy Muell testified that she used to be employed by Heartland Family Services as an intensive family preservation therapist and that she had provided Dawn with approximately 14 weeks of services beginning in November 2006. Muell testified that during this time she observed a few of Dawn's visits with Justyce and noted that the visits included "good interaction" and that Dawn "appeared very nurturing to Justyce." Muell also testified that based on her time with Dawn, she believed that if Dawn received additional counseling and other services, she may be able to one day adequately parent Justyce. She also testified that in February 2007, she discovered that Dawn was starting to see Brian again. Muell testified that this did concern her. Finally, Muell testified that she began seeing Dawn for individual therapy in May 2007, but that as of the time of the hearing, Dawn had missed three scheduled appointments.

Dawn also called Dawn Kinnear, a visitation specialist, to testify. Kinnear testified that she supervised visits between Dawn and Justyce on Sundays and Mondays for 3 hours each day. She testified that Dawn interacted with Justyce constantly during the visits. She testified that Dawn acted very loving and affectionate toward Justyce and that Justyce knew who Dawn was

and smiled when he saw her. Kinnear also testified that Dawn cares for Justyce properly when he is visiting and that she has never observed Dawn to be aggressive or angry with Justyce or mistreat him in any way.

In an order dated July 12, 2007, the juvenile court terminated Dawn's and Brian's parental rights to Justyce, finding that termination of their rights was justified by clear and convincing evidence under § 43-292(2), (8), and (9). The juvenile court also stated that termination of Dawn's and Brian's parental rights was in Justyce's best interests. Dawn appeals that decision here. Brian did not appeal the court's decision to terminate his parental rights.

III. ASSIGNMENTS OF ERROR

Dawn contends that the juvenile court erred in finding that (1) clear and convincing evidence supports the termination of her parental rights to Justyce under § 43-292(2), (8), and (9) and (2) clear and convincing evidence shows that termination of her parental rights is in Justyce's best interests. Dawn also contends that the juvenile court erred in allowing a police officer to testify regarding his opinion that terminating Dawn's parental rights would be in Justyce's best interests.

IV. STANDARD OF REVIEW

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 Hailey M.*, 15 Neb. App. 323, 726 N.W.2d 576 (2007). See *In re Interest of B.R. et al.*, 270 Neb. 685, 708 N.W.2d 586 (2005). 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.*

The interpretation of statutes presents questions of law, in connection with which an appellate court has an obligation to reach an independent conclusion irrespective of the decision made by the court below. *In re Interest of Chloe L. & Ethan L.*, 14 Neb. App. 663, 712 N.W.2d 289 (2006).

V. ANALYSIS

On appeal, Dawn argues that the juvenile court erred in finding clear and convincing evidence to support the termination of her parental rights to Justyce. For a juvenile court to terminate parental rights under § 43-292, it must find that one or more of the statutory grounds listed in this section have been satisfied and that termination is in the child's best interests. *In re Interest of Jagger L.*, 270 Neb. 828, 708 N.W.2d 802 (2006). 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 the fact to be proven. *Id.*

1. STATUTORY GROUNDS FOR TERMINATION

Dawn first asserts that the juvenile court erred in sustaining the motion to terminate her parental rights pursuant to § 43-292(2), (8), and (9). Upon our de novo review of the record, and given the precedent of this court discussed later, we find clear and convincing evidence to support the juvenile court's finding that Dawn's parental rights should be terminated pursuant to

§ 43-292(2). As such, we need not address the juvenile court's findings with respect to § 43-292(8) or (9).

Termination of parental rights is warranted whenever one or more of the statutory grounds provided in § 43-292 is 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., supra.*

Section 43-292(2) states that a parent's rights may be terminated if a parent has "substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection." This court has previously held that a finding of abuse or neglect pursuant to § 43-292(2) may be supported where the record shows (1) a parent's control over the child during the period when the abuse or neglect occurred and (2) multiple injuries or other serious impairment of health have occurred which ordinarily would not occur in the absence of abuse or neglect. *In re Interest of McCauley H.*, 3 Neb. App. 474, 529 N.W.2d 77 (1995). Although *In re Interest of McCauley H.* was an appeal from an adjudication, this court subsequently extended its holding to cases involving the termination of parental rights. *In re Interest of Chloe L. & Ethan L.*, 14 Neb. App. 663, 712 N.W.2d 289 (2006).

In the present case, the evidence establishes that Dawn and Brian were Justyce's sole caregivers during the time period when his injuries occurred. On November 11, 2006, doctors took x rays of Justyce's abdomen which revealed he was suffering from multiple rib fractures. Based on these x rays, Silberberg, the radiologist, testified that Justyce's rib fractures were approximately 14 to 21 days old.

On November 12, 2006, doctors completed additional tests on Justyce. These tests revealed that Justyce was also suffering from two different subdural hematomas. Silberberg testified that one of these injuries was 7 to 10 days old and that the other injury was 3 to 7 days old. At the hearing, more than one doctor testified that the nature of Justyce's injuries indicated that they were inflicted at two different times.

This evidence suggests that Justyce's injuries occurred from mid-October to mid-November 2006. Other evidence at trial revealed that Dawn and Brian were Justyce's sole caregivers during this time. Dawn and Brian told medical personnel and law enforcement officials that Dawn was Justyce's primary caregiver and that Brian watched Justyce while Dawn was at work. Dawn also told officials that a babysitter sometimes watched Justyce while she was at work. Dawn suggested that this babysitter could have been responsible for Justyce's injuries. However, testimony at trial revealed that the last time the babysitter watched Justyce was prior to the time when the injuries occurred. Dawn offered no other evidence to dispute that she had control over Justyce during the time period when he was injured.

Additionally, the record established that Justyce suffered multiple injuries which would not have occurred in the absence of abuse or neglect. Two doctors testified that it would require a significant amount of force to create the head injuries and rib fractures inflicted upon Justyce. This "significant" force was described as the same kind of force which would be experienced in a car accident or in a fall from a height of 4 to 6 feet onto a hard surface. Three doctors testified that the amount of force required to inflict these kinds of injuries would amount to child abuse

and that these injuries do not result from the routine care of a 3 month old. One doctor testified that the nature of Justyce's injuries suggest that they are the result of someone shaking him. Medical testimony also revealed that the nature of Justyce's injuries suggest that he was subjected to at least two or three instances of significant force.

While Dawn suggests that there is evidence that Justyce's injuries were not the result of intentional trauma because he was diagnosed with rickets, the State presented a great deal of evidence to dispute this suggestion. Medical testimony confirmed that Justyce was diagnosed with rickets and that children with rickets can have weaker bones which may be more apt to fractures and injures. However, medical testimony also revealed that breaking the bones of a child with rickets would still require some significant force. Doctors testified that rickets does not cause broken bones and that it is unusual for a child with rickets to present with multiple fractures. In addition, doctors testified that there was no known medical connection between rickets and subdural hematomas. The State's doctors testified that Justyce's two subdural hematomas were not caused by rickets and that in their opinion, all of Justyce's injuries were the result of child abuse.

Dawn did provide a few possible explanations for Justyce's injuries, including that Brian may have injured Justyce by throwing him in the air and catching him; that one of her other children may have dropped Justyce; and that Justyce may have fallen against the back of the couch. However, at trial, the State presented numerous witnesses to dispute these events as the cause of Justyce's injuries.

After a de novo review of the record, we find that the State proved by clear and convincing evidence that Dawn's parental rights to Justyce should be terminated under § 43-292(2) given that Dawn substantially and continuously or repeatedly neglected and refused to give him necessary care and protection. Because the State need show by clear and convincing evidence the presence of only one of the grounds for termination of parental rights in § 43-292, we need not address whether Justyce also comes within the meaning of § 43-292(8) and (9).

2. BEST INTERESTS

Dawn next asserts that the juvenile court erred in finding clear and convincing evidence to show that terminating her parental rights to Justyce was in his best interests. Specifically, she argues that the only two witnesses who provided testimony that terminating her parental rights was in Justyce's best interests were Hoppe and Chubb. She contends that neither witness had a sufficient basis to provide such an opinion. After reviewing the record, we find sufficient evidence to support the juvenile court's finding that terminating Dawn's parental rights is in Justyce's best interests.

Dawn asserts that there was little basis for Hoppe's opinion that terminating Dawn's parental rights was in Justyce's best interests. She argues that Hoppe was only assigned to the family as an initial assessment caseworker and that, as a result, she only worked with the family in November and December 2006. Dawn also argues, "[T]he only basis for [Hoppe's] opinion was that she could not establish who had injured the child, and therefore, she could not prescribe a rehabilitation plan that would allow the return of the child to the care of his mother." Brief for appellant at 40. However, Hoppe's testimony from the hearings reveals that she based her opinion that terminating Dawn's parental right would be in Justyce's best interests on the

severity of Justyce's injuries and on evidence that the injuries occurred on more than one occasion. Hoppe testified that because she was not able to identify who hurt Justyce or the circumstances surrounding his injuries, she could not create an acceptable rehabilitation or reunification plan. Without such a reunification plan, she could not place Justyce back into either parent's home.

Dawn also asserts that the juvenile court should have placed more weight on the testimony of Muell, the therapist who testified that Dawn may be able to adequately parent Justyce at some point in time if she received further counseling and other services. In its order, the juvenile court stated:

The Court recognizes that [Dawn] has participated in therapeutic services voluntarily and pre-adjudication. There is a conflict in the opinions of the witnesses presented on behalf of the mother with witnesses on behalf of the State as to the mother's ability to properly care for this child. The Court finds that the State's witnesses, including . . . Hoppe, are more probative and reliable on the issue of Termination of Parental Rights.

We reiterate that while we review juvenile cases de novo on the record, when the evidence is in conflict, we may give weight to the fact that the lower court observed the witnesses and accepted one version of the facts over the other. See *In re Interest of B.R. et al.*, 270 Neb. 685, 708 N.W.2d 586 (2005).

Dawn next asserts that the juvenile court erred in allowing Chubb, the police officer who investigated Justyce's injuries, to testify regarding his opinion that terminating Dawn's parental rights is in Justyce's best interests. Dawn argues that Chubb "had not had any training regarding making an assessment as to whether it would be in a child's best interests to terminate the parental rights of [a parent]" and that he readily admitted this lack of training to the court. Brief for appellant at 40. Dawn also contends that Chubb's opinion was dated because he had not had contact with the family since December 2006.

Assuming, without deciding, that the court erred in permitting Chubb to testify about his opinion regarding Justyce's best interests, we find that the admission of this testimony does not constitute reversible error. The improper admission of evidence by the trial court in a parental rights termination proceeding does not, in and of itself, constitute reversible error, for, as long as the appellant properly objected at trial, the court will not consider any such evidence in its de novo review of the record. *In re Interest of D.S. and T.S.*, 236 Neb. 413, 461 N.W.2d 415 (1990).

Even if we do not consider Chubb's opinion regarding Justyce's best interests, the record still establishes that Justyce was severely injured during a time when Dawn and Brian were his only caregivers. The doctors testified that Justyce's injuries were a result of child abuse. The doctors also testified that it appeared that Justyce had been subjected to multiple instances of such abuse over the 3- to 4-week period prior to the time when Dawn and Brian took him to the hospital. The record also contains the testimony of Hoppe who opined that it would be in Justyce's best interests to terminate Dawn's parental rights.

Given the severity of Justyce's injuries, and the fact that Dawn failed to protect Justyce from those injuries, clear and convincing evidence shows that termination of Dawn's parental rights is in Justyce's best interests.

VI. CONCLUSION

After reviewing the record de novo, we conclude that the trial court did not err in finding that clear and convincing evidence supports the termination of Dawn's parental rights to Justyce under § 43-292(2) or in finding that clear and convincing evidence shows that termination of Dawn's parental rights is in Justyce's best interests. For those reasons, we affirm the court's order terminating Dawn's parental rights to Justyce.

AFFIRMED.