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parents was paying a "pretty substantial amount" of child support which partially offset DHHS' cost with respect to Gabriela's care.[16] While conservation of public resources is a worthy objective, it cannot justify the legal perpetuation of a parental relationship which no longer exists in fact, thereby permitting an abandoned child to linger indefinitely in foster care. We agree with the observation of the juvenile court that the position taken by DHHS has made Gabriela a "de facto orphan."

[7] Accordingly, for the reasons discussed, we hold that where a juvenile has been adjudicated pursuant to § 43-247(3)(a) and a permanency objective of adoption has been established, a juvenile court has authority under the juvenile code to order DHHS to accept a tendered relinquishment of parental rights. Here, the juvenile court did not err in exercising that authority.

CONCLUSION

For the reasons discussed, we affirm the judgment of the separate juvenile court.

AFFIRMED.

[16] See § 43-290.

IN RE INTEREST OF CORNELIUS K., A CHILD UNDER 18 YEARS OF AGE. STATE OF NEBRASKA, APPELLEE, V. NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES, APPELLANT, AND LAURA K., APPELLEE.

785 N.W.2d 849

Filed July 23, 2010. No. S-09-1166.

1. **Juvenile Courts: Appeal and Error.** An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the juvenile court's findings.
2. **Statutes: Appeal and Error.** To the extent an appeal calls for statutory interpretation or presents questions of law, an appellate court must reach an independent conclusion irrespective of the determination made by the court below.

3. **Juvenile Courts: Jurisdiction: Proof.** At the adjudication stage, in order for a juvenile court to assume jurisdiction of a minor child 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, and 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.

Appeal from the Separate Juvenile Court of Douglas County: PATRICK R. MCDERMOTT, County Judge. Affirmed as modified, and cause remanded for further proceedings.

Carla Heathershaw Risko for appellant.

Debra Tighe-Dolan, of White, Wulff & Jorgensen, for appellee Laura K.

HEAVICAN, C.J., WRIGHT, CONNOLLY, GERRARD, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

STEPHAN, J.

Cornelius K. was adjudicated pursuant to Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) by the separate juvenile court of Douglas County. The adjudication was based in part upon his adoptive mother's relinquishment of parental rights to the Nebraska Department of Health and Human Services (DHHS), which relinquishment was accepted by the court. DHHS appeals, arguing that the juvenile court did not have the statutory authority to accept the relinquishment.

BACKGROUND

Cornelius, born in May 1993, was adopted by Laura K. in 2003 after the termination of his biological mother's parental rights. In August 2008, Laura moved to Texas and left Cornelius in Omaha with a relative. On August 19, 2009, a petition was filed in the juvenile court alleging that Cornelius had been abandoned by Laura. Cornelius was placed in the temporary custody of DHHS.

An adjudication hearing was scheduled for October 23, 2009. Appearing at the hearing were a deputy Douglas County Attorney on behalf of the State, Laura and her counsel, and the guardian ad litem appointed for Cornelius. The record indicates that two representatives of DHHS were present in

the courtroom, but that no appearance was made on behalf of DHHS.

On the day prior to the hearing, the court was advised that Laura intended to relinquish her parental rights. At the beginning of the hearing, Laura's counsel confirmed that this was the case. At that point, Laura's counsel offered several exhibits, including a "Relinquishment of Child by Adoptive Parent" that had been signed by Laura in the presence of a notary public. The relinquishment provided in part:

> I Laura . . . do hereby voluntarily relinquish to [DHHS] all right to and custody of and power and control over Cornelius . . . and all claims and interest in and to his services and wages, to the end that [DHHS] may become the legal guardian of said child and do hereby authorize [DHHS] to place said child in a suitable family home and to consent to and procure the adoption of said child.

After questioning Laura, the court found that she executed the relinquishment and related documents freely, voluntarily, and knowingly. The court then accepted the relinquishment, dismissed Laura from the proceeding, and granted the State leave to file an amended petition "alleging the current circumstances of Cornelius."

After a brief recess, during which the State filed an amended petition alleging that Cornelius was a child within the meaning of § 43-247(3)(a) in that he was homeless and destitute because of Laura's relinquishment, the court conducted an adjudication hearing at which the guardian ad litem admitted the allegations of the amended petition. Based upon this, the court found the allegations of the amended petition to be true and ordered DHHS to prepare a permanency plan for Cornelius. The court made a specific finding that reasonable efforts to reunify Cornelius and Laura were not required pursuant to Neb. Rev. Stat. § 43-283.01(4) (Supp. 2009) because "before the law, Cornelius stands as an abandoned child." The court ordered Cornelius to remain in the temporary custody of DHHS pending disposition and further ordered both DHHS and the guardian ad litem to prepare and submit predispositional reports prior to a permanency planning hearing scheduled for December 7, 2009. The court also dismissed

Laura from the proceeding, based upon her execution of the relinquishment.

After counsel for DHHS perfected an appeal from the adjudication order, the juvenile court postponed the permanency planning hearing pending disposition of the appeal. We moved this appeal to our docket on our own motion pursuant to our statutory authority to regulate the caseloads of the appellate courts of this state.[1]

ASSIGNMENTS OF ERROR

DHHS assigns, restated and consolidated, that the juvenile court erred in (1) accepting Laura's relinquishment of her parental rights and (2) finding that relinquishment of Laura's parental rights was in Cornelius' best interests.

STANDARD OF REVIEW

[1,2] An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the juvenile court's findings.[2] To the extent an appeal calls for statutory interpretation or presents questions of law, an appellate court must reach an independent conclusion irrespective of the determination made by the court below.[3]

ANALYSIS

The initial question we must address is whether Laura's relinquishment of her parental rights was legally accepted. Nebraska's statutory procedures for adoption include the following provision:

> When a child shall have been relinquished by written instrument . . . to [DHHS] or to a licensed child placement agency and the agency has, in writing, accepted full responsibility for the child, the person so relinquishing shall be relieved of all parental duties toward and all responsibilities for such child and have no rights over

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[1] See Neb. Rev. Stat. § 24-1106(3) (Reissue 2008).

[2] *In re Interest of C.H.*, 277 Neb. 565, 763 N.W.2d 708 (2009); *In re Interest of Dustin S.*, 276 Neb. 635, 756 N.W.2d 277 (2008).

[3] *In re Interest of Dustin S., supra* note 2; *In re Interest of Markice M.*, 275 Neb. 908, 750 N.W.2d 345 (2008).

> such child. Nothing contained in this section shall impair the right of such child to inherit.[4]

In *In re Interest of Gabriela H.*,[5] we held that a juvenile court may order DHHS to accept a relinquishment of parental rights in the circumstance where a child has been adjudicated pursuant to § 43-247(3)(a) and a permanency objective of adoption has been determined. But that is not what occurred here. Although the relinquishment was directed to DHHS, it was accepted by the court prior to any adjudication or permanency plan. We conclude that this procedure is not authorized by either the adoption statutes[6] or the Nebraska Juvenile Code.[7] The relinquishment has not been legally accepted, and therefore, Laura's parental rights have not been terminated.

[3] But this does not invalidate the adjudication. The purpose of the adjudication phase is to protect the interests of the child. At the adjudication stage, in order for a juvenile court to assume jurisdiction of a minor child under § 43-247(3)(a), the State must prove the allegations of the petition by a preponderance of the evidence,[8] and 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.[9]

One of the statutory grounds for adjudication is that the juvenile is "homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian."[10] In its amended petition, the State alleged that this ground for adjudication was met because Cornelius had no parent or legal guardian to care for him. The record fully supports this allegation. The fact that the relinquishment has not been accepted by DHHS means that Laura's parental rights have not been legally extinguished pursuant to § 43-106.01. But it does not diminish

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[4] Neb. Rev. Stat. § 43-106.01 (Reissue 2008).

[5] *In re Interest of Gabriela H., ante* p. 284, 785 N.W.2d 843 (2010).

[6] Neb. Rev. Stat. §§ 43-101 to 43-165 (Reissue 2008).

[7] Neb. Rev. Stat. §§ 43-245 to 43-2,129 (Reissue 2008 & Supp. 2009).

[8] *In re Interest of Anaya*, 276 Neb. 825, 758 N.W.2d 10 (2008).

[9] *In re Interest of Corey P. et al.*, 269 Neb. 925, 697 N.W.2d 647 (2005).

[10] § 43-247(3)(a).

the fact that Cornelius is a homeless and destitute child at risk of harm because currently there is no parent or legal guardian providing care for him. Cornelius is thus properly subject to the jurisdiction of the juvenile court under § 43-247(3)(a).

CONCLUSION

We conclude that because the relinquishment was not properly accepted, Laura's parental rights have not been terminated and the district court erred in dismissing her from the proceedings. We vacate that portion of the adjudication order, but affirm the order in all other respects and remand the cause to the juvenile court for further proceedings consistent with this opinion.

AFFIRMED AS MODIFIED, AND CAUSE REMANDED FOR FURTHER PROCEEDINGS.

ARLEEN M. WEBER, APPELLANT AND CROSS-APPELLEE, V. GAS 'N SHOP, INC., AND EMPLOYERS MUTUAL COMPANIES, APPELLEES AND CROSS-APPELLANTS.

786 N.W.2d 671

Filed July 23, 2010. No. S-09-1300.

1. **Judgments: Statutes: Appeal and Error.** Statutory interpretation is a matter of law in connection with which an appellate court has an obligation to reach an independent, correct conclusion irrespective of the determination made by the trial court.
2. **Workers' Compensation: Garnishment.** A garnishment action is an appropriate proceeding to enforce an award of the Workers' Compensation Court.
3. **Garnishment: Notice.** In a garnishment proceeding, the issue is whether the garnishee is indebted to the garnishor or had property or credits of the garnishor in its possession or under its control at the time it was served with notice of the garnishment.

Appeal from the District Court for Douglas County: MARLON A. POLK, Judge. Affirmed.

Jerold V. Fennell and Michael J. Dyer, of Dyer Law, P.C., L.L.O., for appellant.

Tyler P. McLeod and Jeffrey J. Blumel, of Abrahams, Kaslow & Cassman, L.L.P., for appellees.