

IN THE SUPREME COURT, STATE OF WYOMING

2026 WY 105

APRIL TERM, A.D. 2026

September 24, 2026

IN THE MATTER OF THE  
TERMINATION OF PARENTAL  
RIGHTS TO: BEP, minor child,

SKYLAR COLTEN REMER,

Appellant  
(Respondent),

v.

STATE OF WYOMING, ex rel.  
DEPARTMENT OF FAMILY  
SERVICES,

Appellee  
(Petitioner).

S-26-0033

*Appeal from the District Court of Natrona County  
The Honorable Catherine E. Wilking, Judge*

***Representing Appellant:***

Remi A. Bullock, Bullock Law, LLC, Balloun Law Professional Corporation,  
Cheyenne, Wyoming.

***Representing Appellee:***

Keith G. Kautz, Wyoming Attorney General; Christina F. McCabe, Deputy  
Attorney General; Wendy S. Ross, Senior Assistant Attorney General.

***Representing Guardian ad Litem:***

Joseph R. Belcher, Director; Kimberly Skoutary Johnson, Chief Appellate Counsel;  
Wyoming Office of Guardian ad Litem.

***Before BOOMGAARDEN, C.J., and GRAY, FENN, JAROSH, and HILL, JJ.***

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## **HILL, Justice.**

[¶1] Skylar Colten Remer (Father) appeals the district court’s order granting the Wyoming Department of Family Service’s (Department) petition to terminate his parental rights under Wyo. Stat. Ann. § 14-2-309(a)(iii) and (v). We affirm.

### **ISSUE**

[¶2] We restate the dispositive issue as:

- I. Whether the record contains sufficient evidence to support the district court’s termination of Father’s parental rights under Wyo. Stat. Ann. § 14-2-309.

### **FACTS**

[¶3] BEP was born in early November 2022, and by December 1, 2022, he was admitted to the hospital because he was having difficulty breathing. Hospital staff was concerned BEP’s Mother could not adequately care for him. Mother had been watering down BEP’s formula and had given him ibuprofen and infant cough syrup, which were inappropriate for his age of five-weeks. The staff was also concerned by BEP’s low weight. Consequently, the next day a doctor placed BEP in protective custody due to concerns that Mother was not providing BEP with adequate care.

[¶4] The State filed a neglect petition in juvenile court, alleging Mother neglected BEP and her three other children.<sup>1</sup> The juvenile court placed BEP and his siblings into the Department’s legal and physical custody for placement in foster care. A few months later, Mother admitted she neglected BEP. BEP has remained in the Department’s custody since December 2022.

[¶5] Initially, the Department did not know who BEP’s legal father was. Once Mother identified Father as BEP’s legal father, the Department determined Father needed to establish paternity, foster a safe relationship with BEP, and demonstrate adequate parenting ability as part of the family’s case plan.

[¶6] Father’s parentage of BEP was established in May 2023. To help Father establish a safe, meaningful relationship with BEP, and to “reunify” them, among other efforts, the Department and mental health professionals made the following efforts:

- Provided Father with three referrals and payment for family counseling;

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<sup>1</sup> Father is not the father of Mother’s other children.

- A mental health professional engaged Father in two family counseling sessions with Father's mother and his partner;
- The Department conducted home checks to assess the suitability of Father's home for placement of BEP;
- The family, including Father, was referred to two providers for therapeutic and supervised visitation, with the Department paying both providers for their services;
- Father was permitted to have community visits with BEP;
- The Department referred and paid for parenting coaching for Father with one of the providers;
- The Department maintained kinship connections for BEP by permitting Father's mother and romantic partner to attend visits with BEP so the family could create a bond;
- The Department transported or paid others to transport BEP to visitation, counseling, and other appointments;
- The Department offered Father a bus pass multiple times to assist him with transportation;
- The Department attempted to communicate with Father regularly through in-person visits, phone calls, text messages, and emails;
- The Department developed and updated a case plan for the family, and held meetings with Father to review its components;
- The Department provided information about BEP's wellbeing to Father and included him in decision-making related to BEP, as well as informing him of and inviting him to attend BEP's medical, dental, vision, and occupational therapy appointments.

The Department's and the mental health professionals' efforts to rehabilitate and reunify Father and BEP were unsuccessful.

[¶7] The Department filed its Petition for Termination of Parental Rights in May of 2025 (Petition), petitioning the district court to terminate the parent-child relationship between BEP and Mother and Father. In its Petition, the Department alleged Father had not provided adequate care for BEP, had not provided basic daily care for him, had not attended his medical appointments, and had further neglected him by not complying with his case plan. The Petition further alleged:

- Father did not genuinely engage in services with the Department;
- During the juvenile neglect proceeding, Father had not demonstrated meaningful change, had not addressed his mental health adequately, demonstrated instability, had not demonstrated an ability to safely care for BEP, and had not demonstrated appropriate parenting skills;

- Father demonstrated general instability throughout the neglect proceedings, having issues with maintaining housing, with the financial ability to care for BEP, and with transportation which went unresolved over the two years;
- These stability issues had affected Father's ability to safely parent BEP;
- Father engaged minimally in mental health treatment during the neglect proceeding, and only attended two family counseling sessions even though the counselor recommended weekly counseling;
- Father did not attend visitation consistently, impeding his ability to maintain a relationship with BEP;
- Father did not display appropriate parenting skills while at supervised visits;
- Father often fell asleep during supervised visitations and had other people care for BEP;
- The Department arranged for parenting coaching, but Father struggled to attend those sessions and to implement any skills he learned;
- In addition to the supervised visits, the Department permitted Father to have visitation in the community with BEP, but he did not contact BEP's foster placement to arrange more than one such visit.

[¶8] The Department also alleged in the Petition that BEP had higher needs for which Father could not provide, including BEP exhibiting behavioral issues and requiring continued treatment to process significant trauma, as well as requiring consistent routine, structure, and positive parenting. The Department alleged Father had not demonstrated any ability to care for BEP's basic daily needs, let alone his higher needs. Based upon these foregoing allegations, the Department concluded Father's history of neglect of BEP, mental health issues, general instability, failures in the juvenile case, and inability to provide for BEP's basic and higher needs demonstrated that BEP's health and safety would be seriously jeopardized if he were returned to Father's care. The Department further alleged it would be in BEP's best interest for the district court to terminate Father's parental rights.

[¶9] Due to Father's failure to timely respond to the Petition, the district court entered default against him. Father never moved the court to set aside the default. Subsequently, the district court held a two-day parental termination hearing in October and November 2025. At the beginning of the hearing, the district court noted Father was in the status of default, and therefore he was prevented from presenting evidence but would be allowed to cross-examine any of the witnesses the Department and the Guardian ad Litem called. Ms. Francesca Allen, the Department's caseworker for the case, testified about the Petition's unchallenged allegations, giving context to those allegations and supporting and confirming them.

[¶10] At the conclusion of the hearing, the district court orally pronounced its decision including findings related to Father’s unfitness under Wyo. Stat. Ann. § 14-2-309(a)(v). It noted it was basing its decision on the unchallenged allegations of the Petition and Ms. Allen’s testimony. On November 12, 2025, the district court entered its Order terminating Father’s parental rights. The district court incorporated its prior oral findings and concluded there was clear and convincing evidence to terminate Father’s parental rights under both Wyo. Stat. Ann. § 14-2-309(a)(iii) and (v). The district court further found termination of Father’s parental rights was in BEP’s best interest. This appeal followed.

### STANDARD OF REVIEW

[¶11] The following standard of review applies in a termination of parental rights case:

Due to the tension between the fundamental liberty of familial association and the compelling state interest in protecting the welfare of children, application of statutes for termination of parental rights is a matter for strict scrutiny. As part of this strict scrutiny standard, a case for termination of parental rights must be established by clear and convincing evidence. Clear and convincing evidence is that kind of proof that would persuade a trier of fact that the truth of a contention is highly probable. Rigorous though this standard may be, we apply our traditional principles of evidentiary review when a party challenges the sufficiency of the evidence supporting termination. Thus, we examine the evidence in the light most favorable to the party prevailing below, assuming all favorable evidence to be true while discounting conflicting evidence presented by the unsuccessful party.

*Matter of CCC*, 2026 WY 79, ¶ 18, 592 P.3d 701, 706 (Wyo. 2026) (quoting *Matter of BAR*, 2026 WY 13, ¶ 23, 582 P.3d 922, 927 (Wyo. 2026)).

### DISCUSSION

[¶12] Because the various statutory bases for termination of parental rights under Wyo. Stat. Ann. § 14-2-309 are separate and independent, we need only conclude the evidence is sufficient on one of those grounds to affirm. *Matter of CCC*, ¶¶ 18, 24, 592 P.3d at 706–08 (citation omitted); *Matter of BAR*, ¶ 24, 582 P.3d at 927 (citation omitted). Father challenges the district court’s termination of his parental rights under both Wyo. Stat. Ann. § 14-2-309(a)(iii) and (v). We conclude the district court did not err in terminating Father’s parental rights under Wyo. Stat. Ann. § 14-2-309(a)(v) and therefore we need not further

address Father’s Wyo. Stat. Ann. § 14-2-309(a)(iii) challenge.<sup>2</sup> See *Matter of CCC*, ¶ 26 n.4, 592 P.3d at 708 n.4 (citing *MMD*, 2024 WY 35, ¶ 10, 545 P.3d 846, 849 (Wyo. 2024), *reh’g denied* (Apr. 30, 2024)); *In re SRJ*, 2009 WY 94, ¶ 10, 212 P.3d 611, 613–14 (Wyo. 2009) (citing *JD and SE v. Wyoming Dep’t. of Family Servs.*, 2009 WY 78, ¶ 12, 208 P.3d 1323, 1327 (Wyo. 2009)).

[¶13] The Department must present clear and convincing evidence of two elements to terminate Father’s parental rights under Wyo. Stat. Ann. § 14-2-309(a)(v): (1) the child has been in foster care under the responsibility of the State of Wyoming for fifteen of the most recent twenty-two months, and (2) the parent is unfit to have custody and control of the child. *Matter of CCC*, ¶ 27, 592 P.3d at 708 (quoting *Matter of BAR*, ¶ 25, 582 P.3d at 927–28); Wyo. Stat. Ann. § 14-2-309(a)(v). The Department does not have to show reasonable reunification efforts prior to terminating parental rights under Wyo. Stat. Ann. § 14-2-309(a)(v) because neither the text of that subsection nor our precedent requires it. See *Matter of CCC*, ¶ 28, 592 P.3d at 708 (citing *Matter of KCS*, 2019 WY 15, ¶ 12, 433 P.3d 892, 896 (Wyo. 2019)).

[¶14] Father does not dispute that BEP had been in foster care with the Department for more than fifteen of the last twenty-two months when the termination petition was filed, and the record confirms this “mathematical question.” See *Matter of CCC*, ¶ 27, 592 P.3d at 708 (citing *Matter of BAR*, ¶ 25, 582 P.3d at 928). He does, however, argue that the Department presented clear and convincing evidence he was unfit to have custody and care of BEP. We therefore turn our focus to Father’s fitness.

[¶15] Our precedent provides that even though “unfit” is not specifically defined by our statutes, fitness “includes the ability to meet the ongoing physical, mental and emotional needs of the child.” See *Matter of CCC*, ¶ 31, 592 P.3d at 708 (quoting *Matter of BAR*, ¶ 26, 582 P.3d at 928). Similarly, we have noted fitness relates to a parent’s ability to provide or maintain a “positive, nurturing parent-child relationship.” See *LeBlanc v. State Dep’t of Fam. Servs.*, 2017 WY 107, ¶¶ 21–22, 401 P.3d 932, 935–36 (Wyo. 2017) (citation omitted). We determine whether a parent is fit to have custody and care of a child in the context of each case considering the situation and attributes of the specific parent and child. *Matter of CCC*, ¶ 31, 592 P.3d at 708–09 (quoting *Matter of BAR*, ¶ 26, 582 P.3d at 928) (cleaned up). A single incident or condition alone rarely justifies termination. *Id.* (citing *Matter of BAR*, ¶ 26, 582 P.3d at 928); see also *Matter of JPL*, 2021 WY 94, ¶ 24, 493 P.3d

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<sup>2</sup> Our decision to address only § 14-2-309(a)(v) according to our precedent does not mean clear and convincing evidence did not exist to support a termination under § 14-2-309(a)(iii). See, e.g., *Matter of CCC*, ¶ 26 n.4, 592 P.3d at 708 n.4 (citation omitted), and *Matter of L-MHB*, 2020 WY 1, ¶ 18 n.4, 454 P.3d 935, 939 n.4 (Wyo. 2020). The same facts are relevant to, and support, termination under both grounds. *Matter of L-MHB*, ¶ 18 n.4, 454 P.3d at 939 n.4 (citing *In re A.D.*, 2007 WY 23, ¶ 12, 151 P.3d 1102, 1106 (Wyo. 2007). The evidence pertaining to whether the child’s health and safety would be seriously jeopardized if returned to a parent is also relevant to the determination of whether the parent is unfit. *Id.*; see also *In re K.L.S.*, 2004 WY 87, ¶¶ 12, 24, 26, 28, 31, 94 P.3d 1025, 1028–33 (Wyo. 2004).

174, 180 (Wyo. 2021). We consider the combination of factors, incidents, and conditions that demonstrate fitness over time. *Matter of CCC*, ¶ 31, 592 P.3d at 709 (quoting *Matter of BAR*, 2026 WY 13, ¶ 26, 582 P.3d at 928) (citation modified). Relevant factors include:

1) inability to assist with therapy and recovery of a child with significant mental health needs; 2) lack of contact with and expressed lack of desire to take custody of the child; 3) contribution to the child’s mental health or behavioral problems; 4) unstable living situation relating to employment or maintenance of a suitable home; 5) criminal record, particularly one primarily related to drug use, or a pattern of ongoing drug use; 6) failure to take responsibility for past conduct; 7) lack of emotional bond with the child; 8) failure to develop child-rearing skills; 9) convictions for crimes involving a potential for harming the child; 10) inability to monitor or make healthy nutritional choices or to provide a safe environment; 11) a history of surrounding [oneself] and the children with unsafe individuals; and 12) the child has become upset by or resistant to visitation with the parent.

*Id.* (quoting *Matter of BAR*, ¶ 26, 582 P.3d at 928); *see also Matter of DKS*, 2020 WY 12, ¶ 22, 456 P.3d 918, 925 (Wyo. 2020) (quoting *Gillen v. State of Wyo., Dep’t of Family Servs. (In re KCS)*, 2019 WY 15, ¶ 13, 433 P.3d 892, 896 (Wyo. 2019)). Consideration of relevant factors does not constitute a multi-factor balancing test. *Matter of CCC*, ¶ 33 n.6, 592 P.3d at 709 n.7 (citation omitted).

[¶16] A parent’s fitness is determined at the time of trial, but the district court need not ignore evidence of a parent’s prior conduct when determining current parental fitness. *Matter of CCC*, ¶ 32, 592 P.3d at 709 (citing *Matter of BAR*, 2026 WY 13, ¶ 27, 582 P.3d at 928). Thus, a parent’s past behavior is plainly relevant in determining parental fitness. *Id.* (citing *Matter of BAR*, ¶ 27, 582 P.3d at 928). “In fact, fitness is usually manifested by numerous incidents and conditions extending over a considerable length of time.” *Id.* (quoting *Matter of JPL*, ¶ 24, 493 P.3d at 180) (cleaned up).

[¶17] On review, we must construe the evidence in the light most favorable to the Department and discount Father’s conflicting evidence to determine whether the Department presented sufficient evidence to support the district court’s determination Father is unfit to have custody and control of BEP. *See Matter of CCC*, ¶¶ 18, 34, 592 P.3d at 706, 709; *Matter of BAR*, ¶¶ 23, 28, 582 P.3d at 927, 928; Wyo. Stat. Ann. § 14-2-309(a)(v). We conclude it did.

[¶18] Because default was entered against Father, the allegations of the petition to terminate are deemed to be true. *Peak v. Peak*, 2016 WY 109, ¶¶ 25–26, 383 P.3d 1084, 1092 (Wyo. 2016). Those relevant allegations are:

52. During the current neglect proceeding, [Father] has not provided adequate care for [BEP]. He has not provided basic daily care for him and not attended his medical appointments. [Father] has also neglected [BEP] child by not complying with his case plan.

....

55. [Father] did not genuinely engage in services with the Agency. During the current juvenile neglect proceeding, [Father] has not demonstrated meaningful change; not addressed his mental health adequately; not demonstrated stability; not demonstrated an ability to care for [BEP] safely; and not demonstrated appropriate parenting skills.

56. [Father] has demonstrated general instability throughout the neglect proceeding, with issues in maintaining housing, financial ability to care for [BEP], and transportation. [Father's] living situation during the case has been unstable. Transportation has been a barrier for [Father] for the entire case and he has not resolved the issue over two years. These stability issues have affected his ability to parent [BEP] safely.

57. [Father] engaged minimally in mental health treatment during the neglect case. He attended two family counseling sessions, but the counselor recommended that the counseling continue weekly.

58. [Father] did not attend visitation consistently, impeding his ability to maintain a relationship with [BEP]. He often cancelled citing medical issues, but he has not provided the Agency any documentation regarding his medical issues. [Father] did not display appropriate parenting skills while at supervised visits. He fell asleep often and had other people care for [BEP]. The Agency arranged for parenting coaching, but [Father] struggled to attend those sessions and to implement any skills learned.

59. In addition to the supervised visits, the Agency permitted [Father] to have visitation in the community with [BEP]. He did not contact BEP's foster placement to arrange more than one community visit with BEP.

60. BEP has higher needs for which [Father] cannot provide. [BEP] exhibits behavioral issues and requires continued treatment to process significant trauma. [BEP] requires consistent routine, structure, and positive parenting. [Father] has not demonstrated any ability to care for BEP's basic daily needs, let alone his higher needs.

61. [Father's] history of neglect, mental health issues, general instability, failures in the juvenile case, and inability to provide for [BEP's] basic and higher needs demonstrate that the health and safety of [BEP] would be seriously jeopardized if he were returned to [Father's] care.

. . . .

63. It is in the best interest of [BEP] for this [c]ourt to terminate the parental rights of his natural father, [Father].

[¶19] Not only are the Petition's allegations deemed unchallenged and true, but additionally the Department's caseworker for the case, Ms. Allen, testified as to each allegation, giving them context and substantially confirming them. In its oral ruling after trial, the district court found Father currently unfit to meet the needs of BEP and to have custody and control of BEP. The district court found the evidence showed there were significant concerns about Father's ability to safely parent BEP, and the case plan had been developed to address those parenting concerns. It concluded that unfitness was supported by the uncontroverted evidence that all the concerns identified by the juvenile court, the Department, the Department's case plan, and service providers had not been addressed and therefore those concerns still existed at the time of the termination hearing.

[¶20] Father argues the evidence presented at trial did not establish he was unfit to parent BEP at the time of the hearing. One of his main contentions is that Ms. Allen testified she did not know what his housing situation was at the time of the hearing. We are unpersuaded for three reasons. First, because Father was in default and prohibited from introducing evidence, there was no evidence that he had obtained and maintained safe, stable, and appropriate housing. Second, we have held in prior cases that even if a parent has made temporary or recent improvements, including obtaining stable housing for a short time before a termination hearing, those improvements do not outweigh a long history of instability. *See Matter of BAR*, ¶¶ 37–38, 582 P.3d at 930 (citing *In re A.D.*, 2007 WY 23, ¶ 29, 151 P.3d 1102, 1109 (Wyo. 2007)). Third, the district court's determination did not, and our determination does not, rest upon this fact alone. *See Matter of JPL*, ¶ 28, 493 P.3d at 181. Furthermore, we note that Father's counsel told the district court during her opening statement that Father was on social security and currently lived in a motel and was trying to "find a place that he can have [BEP]." Although opening statements are not evidence, we view Father's counsel's statements as made under her duty of candor to the court as an officer of the court. *See Wyoming Rules of Professional Conduct 3.3.*

[¶21] The uncontroverted evidence in the record demonstrates Father is unable to meet BEP's ongoing needs, has never demonstrated the ability to provide even basic daily care for BEP, and has struggled with stability in regard to safe and appropriate housing, interaction and engagement with BEP during visits, and improving his parenting skills. BEP has been in the Department's care and custody since he was five-weeks old, living in

a stable and thriving environment in foster care. BEP has never lived with Father due to Father's failure to work the case plan and obtain and maintain safe and appropriate housing. "[W]hen the rights of a parent and the rights of a child are on a collision course, the rights of the parent must yield[;][w]hile parents have a fundamental right to raise their children, children have a right to stability and permanency in their family relationships." *Matter of CCC*, ¶ 35, 592 P.3d at 709–10 (citation omitted); *see also Matter of BAR*, ¶ 38, 582 P.3d at 930. The record supports the district court's findings regarding Father's lack of fitness to care for BEP. The evidence sufficiently supports the district court's decision to terminate Father's parental rights to BEP.

## CONCLUSION

[¶22] Sufficient evidence supports the district court's determination the Department presented clear and convincing evidence Father is unfit to have custody and control of BEP under Wyo. Stat. Ann. § 14-2-309(a)(v).<sup>3</sup> The district court's termination of Father's parental rights to BEP under Wyo. Stat. Ann. § 14-2-309 is affirmed.

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<sup>3</sup> This conclusion does not imply that DFS failed to present clear and convincing evidence of the alternative ground for termination under Wyo. Stat. Ann. § 14-2-309(a)(iii). *See Matter of L-MHB*, 2020 WY 1, ¶ 46 n.22, 454 P.3d 935, 945 n.22 (Wyo. 2020), and this Opinion's ¶ 12, note 2.