

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 06/21/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

MELISSA N.,)
)
) 1 CA-JV 12-0033
)
) DEPARTMENT A
)
) Appellant,)
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) v.)
) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
)
) ARIZONA DEPARTMENT OF ECONOMIC)
) SECURITY, KEVIN N., SAMUEL C.,)
)
) Appellees.)
)

Appeal from the Superior Court in Maricopa County

Cause No. JD20009

The Honorable M. Jean Hoag, Judge (Retired)

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Nicholas Chapman-Hushek, Assistant Attorney General
Attorneys for Appellees

Robert D. Rosanelli Phoenix
Attorney for Appellant

N O R R I S, Judge

¶1 Appellant Melissa N. ("Mother") timely appeals the juvenile court's order terminating her parental rights to her sons, Samuel C. and Kevin N. Mother does not challenge the

sufficiency of the evidence presented by Appellee Arizona Department of Economic Security (ADES) in moving to terminate Mother's parent-child relationship under Arizona Revised Statutes ("A.R.S.") section 8-533(B)(4) (2011).¹

¶12 Instead, citing A.R.S. § 8-538(A) (2008) and Arizona Rule of Procedure for the Juvenile Court ("Rule") 66(F), Mother argues the juvenile court failed to make sufficient findings when it granted the motion to terminate.² Thus, Mother asks us to reverse the termination order because the juvenile court "did not find that the reported conviction was of a certain nature, nor did the [juvenile] court find that the Appellant was sentenced to prison for any period of time." On this record, we see no basis for reversal.

¶13 First, Mother's argument is not properly before us. She did not make this argument in the juvenile court and has consequently waived it. As we recognized when confronted with the same argument in *Christy C. v. Arizona Department of*

¹A.R.S. § 8-533(B)(4) requires that evidence "to justify the termination of the parent-child relationship shall include . . . that the parent is deprived of civil liberties due to the conviction of a felony if the felony of which that parent was convicted is of such nature as to prove the unfitness of that parent to have future custody and control of the child . . . or if the sentence of that parent is of such length that the child will be deprived of a normal home for a period of years."

²Both A.R.S. § 8-538(A) and Rule 66 require the juvenile court to make findings of fact in support of an order terminating parental rights.

Economic Security, 214 Ariz. 445, 153 P.3d 1074 (App. 2007), we do not consider objections raised for the first time on appeal. *Id.* at 452, ¶ 21, 153 P.3d at 1081. This is particularly so in the context of juvenile court findings. *Id.* (quoting *Bayles Inv. & Trading Co. v. Bekins Moving & Storage Co.*, 26 Ariz. App. 265, 271, 547 P.2d 1065, 1071 (1976)) (“[A] party may not ‘sit back and not call the trial court’s attention to the lack of a specific finding on a critical issue, and then urge on appeal that mere lack of a finding on that critical issue as a grounds for reversal.’”).

¶4 Even if not waived, Mother has not suffered any prejudice from the alleged lack of findings in the termination order. Mother pleaded guilty to attempted child abuse, a class 4 felony, and a domestic violence offense. Although the termination order did not specifically refer to the felony by name in stating it was of “such a nature as to prove” Mother’s unfitness to have future custody and control of her children or discuss the length of Mother’s sentence, the court did so explicitly on the record at the conclusion of the termination hearing. The juvenile court stated:

The Court has heard the evidence that . . . [Mother] . . . is deprived of her civil liberties. The point of it is that she is convicted of a felony and, according to the plea agreement, she has one prior felony conviction. Due to the conviction of a felony, which is the attempted child abuse,

a domestic violence crime, and the felony is of such a nature as to prove her unfitness, one of her children it is alleged that [child], consistent with the report, is the victim who came into the hospital 2/1/2011 for methadone ingestion, was found positive for cocaine.

As a result of that activity, Mother was charged feloniously and through plea negotiations entered a plea of guilty. Mother accepted a plea bargain in that case associated with [Samuel C.] and as such, she agreed not to have contact with [Samuel C.] It says in the petition with the children, but the plea agreement says the victim, who is alleged to be [Samuel C.], until the child is 18 years old, which the plea agreement says she's on probation for 15 years. So she cannot have contact with one of her children due to her activities from that event on 2/1/11 for not less than 15 years.

¶15 Given the court's specific findings on the record, we see no prejudice. Therefore, we affirm the juvenile court's termination order.

 /s/____
PATRICIA K. NORRIS, Judge

CONCURRING:

 /s/____
ANN A. SCOTT TIMMER, Presiding Judge

 /s/____
DONN KESSLER, Judge