

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



DIVISION ONE
FILED: 10/18/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

CHRISTOPHER C.,)	1 CA-JV 12-0067
)	
Appellant,)	DEPARTMENT B
)	
v.)	MEMORANDUM DECISION
)	(Not for Publication -
ARIZONA DEPARTMENT OF ECONOMIC)	Ariz.R.P.Juv.Ct.
SECURITY, VINCENT H., CHRISTOPHER)	103(G); ARCAP 28)
C.,)	
Appellees.)	
)	

Appeal from the Superior Court in Maricopa County

Cause No. JD508668

The Honorable Brian Ishikawa, Judge

AFFIRMED

Robert D. Rosanelli
Attorney for Appellant

Phoenix

Thomas C. Horne, Attorney General
by Laura J. Huff, Assistant Attorney General
Attorneys for Appellees

Tucson

H O W E, Judge

¶1 Christopher C. ("Father") appeals from the termination of his parental rights to V.H. and C.C. ("the children")

pursuant to Arizona Revised Statutes ("A.R.S.") section 8-533(B)(3) (Westlaw 2012).¹ Finding no error, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Father, thirty-seven years old, is the biological parent of minors V.H. and C.C., born in 2007, and 2009, respectively.² Father began using methamphetamine when he was sixteen years old.

¶3 Child Protective Services ("CPS") received two separate reports within three months of each other in 2009 that Father and the children's mother had neglected the children as a result of substance abuse. CPS then received another report that Father was using methamphetamine, selling drugs from the home, allowing a child molester to live in the home with the children, and living with the children in an unclean home. Although Father admitted using methamphetamine, he denied the other allegations. Despite his denial, CPS removed the children from the home and filed a dependency petition. After an

¹ Absent material revisions to this decision, we cite the current version of applicable statutes.

² Father is also the parent to minor S.C., who is subject to a separate appeal in case CA-JV 12-0068.

adjudication, the juvenile court found that the children were dependant as to Father.³

¶4 CPS established a case plan of family reunification and offered Father a number of services, including substance-abuse assessment and treatment through TERROS, random urinalysis testing, psychological consultation, parent-aide services, and supervised visits. Father was also required to maintain a safe, drug-free home environment; to secure employment; and to obtain financial stability.

¶5 Father consulted with a psychologist as the case plan required. He tested negative for illegal drugs until August 20, 2010, when he tested positive for methamphetamine. After that point, he failed to call in as required for random urinalysis testing.

¶6 Father completed substance abuse treatment with TERROS in October 2010; however, he relapsed the next month. He again failed to call in for random urinalysis testing on multiple occasions, and failed to submit to required testing on six occasions. His case manager believed that he relapsed.

¶7 Father completed a second psychological evaluation where he admitted using methamphetamine but asserted that it did

³ The children were adjudicated dependent as to their mother in October 2010. The juvenile court terminated the mother's parental rights to the children and she is not subject to this appeal.

not interfere with his children's care. The psychologist concluded that Father's commitment to a clean and sober lifestyle was "marginal," and his commitment to providing a stable and secure home environment for his children was "doubtful." The psychologist also noted that Father risked relapse because he used illicit drugs regularly for eighteen years, reported less than five months of abstinence, acknowledged a methamphetamine addiction, and associated with methamphetamine users. The psychologist opined that "[s]everance and adoption may be necessary unless [Father] can recognize and remedy his deficits as a parent, especially with regard to protecting his children and permanently ceasing his drug use."

¶8 Father's failure to maintain sobriety, secure employment, support himself financially, and make necessary changes to show that he could effectively parent the children, caused CPS to recommend changing his case plan to severance and adoption. Despite his initial participation in services, CPS moved to change the case plan to terminate his parental rights, and the court agreed.

¶9 CPS alleged that Father's parental rights should be terminated in September 2011 because he had a history of chronic abuse of dangerous drugs that made him unable to discharge parental responsibilities, and that reasonable grounds existed

to believe that the condition would continue for a prolonged indeterminate period. After a contested severance hearing, the juvenile court found by clear and convincing evidence that Father was unable to discharge his parental responsibilities. It also found that CPS proved by a preponderance of the evidence that terminating Father's parental relationship was in the children's best interest.

¶10 Father timely appealed the court's termination order. This court has jurisdiction under A.R.S. §§ 8-235 and 12-120.21.

DISCUSSION

¶11 Father argues that the juvenile court erroneously terminated his parental rights. He argues specifically that his history of drug abuse alone does not support a termination of parental rights.

¶12 We view the evidence and all reasonable inferences therefrom in the light most favorable to upholding the juvenile court's order. *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, 207, ¶ 2, 181 P.3d 1126, 1128 (App. 2008). We do not reweigh the evidence because the juvenile court, as the trier of fact, "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 4, 100 P.3d 943, 945 (App. 2004). We accept the juvenile court's factual findings if reasonable evidence

supports them, and we affirm a severance order unless it is clearly erroneous. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4, 53 P.3d 203, 205 (App. 2002).

¶13 To satisfy the statutory requirement for parental termination, the juvenile court must find by clear and convincing evidence that a ground for termination set forth in A.R.S. § 8-533 exists, and by a preponderance of the evidence that termination is in the child's best interest. *Kent K. v. Bobby M.*, 210 Ariz. 279, 280, 288, ¶¶ 1, 41, 110 P.3d 1013, 1014, 1022 (2005).⁴

¶14 To terminate a parent's rights under A.R.S. § 8-533(B)(3), the juvenile court must make two findings: (1) the parent is unable to discharge parental responsibilities because of a history of chronic abuse of controlled substances and (2) reasonable grounds exist to believe that the abuse will continue for a prolonged and indeterminate period. A.R.S. § 8-533(B)(3). The record shows that the juvenile court did not clearly err in finding that § 8-533(B) was satisfied in this case.

¶15 Reasonable evidence supported the court's finding that Father could not discharge his parental responsibilities because of his chronic substance abuse. Under A.R.S. § 8-533(B)(3), the

⁴ Father does not contest the juvenile court's finding that termination of his parental rights was in the children's best interest. Therefore, Father has abandoned any such claim on appeal.

juvenile court must find that Father's drug use deters his ability to be an effective parent. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 377, ¶ 19, 231 P.3d 377, 381 (App. 2010). The record shows that Father has been using drugs since age sixteen. He admitted to using methamphetamine when the children were removed. Despite his initial efforts to participate in the case plan, he relapsed after visiting TERROS, continued to test positive for methamphetamine and stopped participating in drug testing. Moreover, the psychologist reported that Father was not committed to a clean and sober lifestyle, had only five months of abstinence since he began to use drugs and associated with people who used drugs. The psychologist also noted that Father's drug use undermined his ability to parent and would continue for a prolonged indefinite period.

¶16 The record also supports the juvenile court's finding of reasonable grounds to believe that Father's chronic drug use will continue for a prolonged and indeterminate period. Evidence of a parent's "significant history of drug use, recent drug use, and failure to complete various reunification services" is sufficient to satisfy this requirement of § 8-533(B)(3). *Raymond F.*, 224 Ariz. at 378-79, ¶¶ 25-26, 231 P.3d at 382-83. Father has a significant history of chronic drug abuse, he used drugs recently before the termination

proceedings, and has failed to complete reunification services. Thus, sufficient evidence exists to find that Father's condition will continue for a prolonged and indefinite period.

CONCLUSION

¶17 For these reasons, we affirm.

/s/

RANDALL M. HOWE, Judge

CONCURRING:

/s/

MAURICE PORTLEY, Presiding Judge

/s/

PATRICIA A. OROZCO, Judge