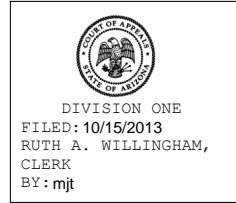


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz.R.Sup.Ct. 111(c); ARCAP 28(c);  
Ariz.R.Crim.P. 31.24



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

CAROLE R. ) 1 CA-JV 13-0108  
)  
) Appellant, ) DEPARTMENT C  
)  
) v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
CHRISTINE D., GALE P., A.L.,<sup>1</sup> ) Ariz. R.P. Juv. Ct.  
) 103(G); ARCAP 28)  
) Appellees. )  
)  
)

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Appeal from the Superior Court in Maricopa County

Cause No. JS507006

The Honorable Peter A. Thompson, Judge

**AFFIRMED**

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Robert D. Rosanelli Phoenix  
Attorney for Appellant

Jeffrey M. Zurbriggen, P.C. Phoenix  
by Jeffrey Zurbriggen  
Attorney for Appellee

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**H O W E**, Presiding Judge

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<sup>1</sup> The caption has been amended to safeguard the juvenile's identity pursuant to Administrative Order 2013-0001.

¶1 Carole R. ("Mother") appeals the juvenile court's termination of her parental rights to A.L. ("Child") based on abandonment and substance abuse. Finding no error, we affirm.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 Mother has suffered from a long history of substance abuse. Since 2010, Mother has been sober only while incarcerated or on probation. While pregnant with her eldest child, Mother used methadone daily. As a result, that child was born with severe symptoms of drug withdrawal.

¶3 In 2005, Mother gave birth to Child. Child's biological father reported that although Mother's substance abuse tempered during the pregnancy, she "really started getting bad" approximately one year after Child's birth. At the worst stages of her substance abuse, Mother was drunk daily. Mother was later diagnosed with opioid and alcohol dependency, and received treatment in a rehabilitation program.

¶4 In 2010, Mother received two separate citations for driving under the influence ("DUI"). At the time of the first offense, both of her children were with her in the vehicle and Mother had a blood alcohol concentration of 0.2 percent.

¶5 Mother entered into plea agreements to resolve the citations, in which she agreed to nine months of incarceration. In light of her impending incarceration, Mother allowed Child's paternal grandmother to care for Child. Thereafter, Child's

health forced her to leave a pre-kindergarten program. Among other things, serious issues had arisen regarding her hair and skin, and she had to be treated for bed bugs and taken to the dentist to treat ten cavities and four rotten molars.

¶16 On February 17, 2011, Mother was sentenced on her two DUI offenses to 30 days in jail, 8 months in prison, and 4 years of probation. Because of Mother's prison term, Father filed a petition in family court seeking temporary sole custody. At the custody hearing, Mother agreed that Father should have sole custody of Child and that the child should live in Illinois with Father's relatives. The court granted Father sole custody of Child and encouraged contact between Mother and Child, but ordered that contact would be at Father's discretion. Initially, Child resided in Illinois with the paternal grandmother's sister, Rita. When financial issues arose, Child went to live with the paternal grandmother's sister, Christine, and her husband, Gale P. In July 2011, Father purported to grant Christine guardianship over Child, and Christine filed a Petition to Terminate Parent Child Relationship.

¶17 At the severance hearing, the court heard testimony from a variety of witnesses, including Mother. A clinical counselor testified that she believed Child had experienced some type of trauma while with her biological family. She believed, however, that Child was stable in her placement with Christine,

felt safe and secure, and had formed an attachment to Christine and Gale and recommended not disrupting the placement. Both Christine and Gale testified that they were willing to adopt Child.

¶18 The court found that Mother had "made only minimal efforts to support or communicate with [Child] and failed to provide a normal parent child relationship without good cause for approximately two years." The court also found that Mother was unable to discharge her parental responsibilities because of a history of chronic abuse of dangerous drugs and alcohol and reasonable grounds existed to believe that her inability to parent would continue for a prolonged indeterminate time. Specifically, the court found that Mother's two decades of significant substance abuse rendered her unable to "discharge her parental responsibilities in the near future." Finally, the court found that termination was in Child's best interests because termination would make Child available for adoption and provide her "a safe, permanent and stable drug and alcohol abuse free environment capable of addressing all of [Child's] physical, medical, emotional, educational, economic and special needs." For those reasons, the juvenile court terminated the parental rights of Mother.

## DISCUSSION

¶9 Although Mother challenges both statutory grounds upon which the juvenile court terminated her parental rights, we only address the issue of substance abuse as only one statutory ground is required to affirm a severance order. See *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 252 ¶ 27, 995 P.2d 682, 687 (2000); *In re Maricopa County Juvenile Action No. JS-6520*, 157 Ariz. 238, 756 P.2d 335 (App. 1988). Finding no error, we affirm.

¶10 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).

¶11 As applicable here, to terminate parental rights, the juvenile court must find by clear and convincing evidence that a

ground for termination set forth in A.R.S. § 8-533 exists.<sup>2</sup> *Kent K. v. Bobby M.*, 210 Ariz. 279, 280, 288, ¶¶ 1, 41, 110 P.3d 1013, 1014, 1022 (2005). The juvenile court may terminate parental rights if the parent is unable to discharge parental responsibilities because of a "history of chronic abuse of dangerous drugs, controlled substances or alcohol and there are reasonable grounds to believe the condition will continue for a prolonged indeterminate period." A.R.S. § 8-533(B)(3).

¶12 The juvenile court record is replete with evidence of Mother's substance abuse. Mother used methadone daily during the pregnancy of her eldest child. Although this abuse subsided while she was pregnant with Child, it returned with vengeance in the year following Child's birth. During that time, Mother also was drunk daily, and was eventually diagnosed with opioid and alcohol dependency before ultimately entering a drug rehabilitation program. Later, in 2010, Mother was cited for two separate DUI offenses, including one time when Child was in the car Mother was driving.

¶13 Despite Mother's uncontroverted history of chronic substance abuse, she argues that insufficient evidence was presented to establish that her addiction would continue for a prolonged and indefinite period. Mother's argument hinges on the

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<sup>2</sup> Mother does not contest the juvenile court's finding that termination was in Child's best interests.

evidence before the court that she had been drug-free in the months preceding the severance order. The court did not abuse its discretion, however, by concluding that the absence of substance abuse for a period of a few months is insufficient to overcome Mother's nearly twenty years of drug and alcohol abuse. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 377 ¶ 15, 231 P.3d 377, 381 (App. 2010). While remaining sober for several months is commendable, no evidence shows that Mother—outside the few months preceding the severance order—has been able to remain drug free in a non-custodial setting for a sustained period. Accordingly, sufficient evidence in the record supports the court's finding that Mother's chronic drug use justifies severance.

**CONCLUSION**

¶14 For these reasons, we affirm the juvenile court's termination of Mother's parental rights.

\_\_\_\_\_/s/\_\_\_\_\_  
RANDALL M. HOWE, Presiding Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
SAMUEL A. THUMMA, Judge

\_\_\_\_\_/s/\_\_\_\_\_  
DIANE M. JOHNSEN, Judge