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UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

ANNETTE H., *Appellant*,

v.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY, D.H., M.H., F.H.,
Appellees.

No. 1 CA-JV 13-0154

FILED 12-3-2013

Appeal from the Superior Court in Maricopa County
No. JD21462
The Honorable Joan M. Sinclair, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Michael Valenzuela

Counsel for Appellee Arizona Department of Economic Security

Maricopa County Public Advocate, Mesa
By Erin N. Jones

Counsel for Appellant

MEMORANDUM DECISION

Presiding Judge Andrew W. Gould delivered the decision of the Court, in which Judge Donn Kessler and Judge Michael J. Brown joined.

G O U L D, Judge:

¶1 Annette H. (“Mother”) appeals the juvenile court’s order terminating her parental rights to D.H., M.H., and F.H. (the “children”). Finding no error, we affirm.

Facts And Procedural Background

¶2 Mother has a history of substance abuse and mental health issues. She began using marijuana at age eight, and started consuming alcohol at age ten. Mother began using methamphetamine and ecstasy at age sixteen, and cocaine at age twenty.

¶3 Mother began feeling “depressed” in 2006, and first came to the attention of Child Protective Services (“CPS”) on April 30, 2011 after she had been hospitalized for cutting her wrists. At the time of her hospitalization, Mother tested positive for methamphetamine; she was twenty weeks pregnant. On February 11, 2012, CPS received a report stating that Mother had brought her children to the hospital after two of her children disclosed they had been sexually abused by Mother’s live-in boyfriend, a known sex offender. CPS removed the children and placed them in foster care.

¶4 In February 2012, the Arizona Department of Economic Security (“ADES”) filed a petition alleging that the children were dependent due to Mother’s substance abuse and mental health problems, which, the petition claimed, prevented Mother from safely caring for them and protecting them from her boyfriend’s sexual abuse. The juvenile court found the children to be dependent and ordered that the children be placed in ADES custody, with a case plan for family reunification and a concurrent plan for severance and adoption, contingent on Mother’s ability to take care of herself, and eventually her children.

¶5 In December 2012, Mother’s case manager requested reunification services be discontinued “because the mother has not made significant progress in achieving the necessary behavioral changes” and

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“continues to demonstrate poor judgment.” Specifically, Mother had not completed her substance abuse treatment, had not consistently attended her counseling sessions, and maintained an intimate relationship with a methamphetamine user. The psychological evaluation revealed that “if mother does not address her substance abuse and mental health issues, the children are at risk of neglect and endangerment” and recommended that the children not be returned to Mother. Based on these findings, ADES moved to change the case plan to severance and adoption. The court approved of the change, and shortly thereafter, ADES moved to sever Mother’s parental rights on grounds of substance abuse and extended out-of-home placement.

¶6 The juvenile court held a contested severance hearing in May 2013. Mother was provided notice of the hearing but failed to appear, and the juvenile court proceeded by default, noting that by failing to appear Mother had waived her rights to contest the severance petition. Following the hearing, the juvenile court ordered termination of the parent-child relationship. In its termination order, the juvenile court found termination was in the best interests of the children because: (1) the children were adoptable, (2) adoption would provide them with permanency and stability, (3) termination would further the plan for the children to be adopted, and (4) the children were currently placed with another family member “who has a significant relationship” with the children and “is the least restrictive placement consistent with the needs of the child[ren].” Mother filed a timely appeal. This court has jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution and Arizona Revised Statutes (“A.R.S.”) section 8-235.

Discussion

¶7 Mother argues on appeal that the juvenile court’s findings pertaining to the children’s best interests were not supported by sufficient findings of fact as required under Rule 66(F)(2)(a) of the Rules of Procedure for the Juvenile Court. “The order,” she asserts, “contains no indication of the reason or reasons that the court concluded termination was in the best interest of the children.” Mother also contends the juvenile court erred because it failed to make any findings as to how any specific adoption plan would benefit the children. Based on the lack of these requisite findings, Mother claims the juvenile court’s order terminating her parental rights constitutes an abuse of discretion.

¶8 We review a severance ruling for an abuse of discretion, accepting factual findings unless clearly erroneous. *Mary Lou C. v. Ariz.*

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Dep't of Econ. Sec., 207 Ariz. 43, 47, ¶ 8, 83 P.3d 43, 47 (App. 2004). When a court terminates a parent-child relationship, it must make specific, written findings of fact and conclusions of law in support of its decision. A.R.S. § 8-538(A); Ariz. R.P. Juv. Ct. 66(F)(2)(a). The findings of fact and conclusions of law must be sufficiently detailed to permit effective appellate review. *Ruben M. v. Ariz. Dep't of Econ. Sec.*, 230 Ariz. 236, 240, ¶ 25, 282 P.3d 437, 441 (App. 2012). The level of detail is dependent on the complexity of the case; when the legal issues involved are complicated, greater detail is necessary, but when the grounds for termination are "simple and straightforward," "more summary findings are sufficient." *Id.* at 241, ¶¶ 26-27.

¶9 In addressing the requisite finding that severance is in the best interests of a child, "the court's findings must include a finding as to how the child would benefit from a severance *or* be harmed by the continuation of the relationship." *Ruben M.*, 230 Ariz. at 241, ¶ 27, 282 P.3d at 442 (internal citations omitted); *James S. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 351, 356, ¶ 18, 972 P.2d 684, 689 (App. 1998); A.R.S. § 8-533(B) (severance must be in best interests of child). In making these findings, a court may consider "the immediate availability of an adoptive placement"; however, the existence/consideration of a specific adoption plan is not a prerequisite for termination. Rather, a court may find that termination is in the best interests of a child when it determines the child is adoptable and the child's current placement is meeting his/her needs. *Bobby G. v. Ariz. Dep't of Econ. Sec.*, 219 Ariz. 506, 511, ¶ 15, 200 P.3d 1003, 1008 (App. 2008); *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 5, 982 P.2d 1290, 1291 (App. 1998). See *Maricopa County Juv. Action No. JS-501904*, 180 Ariz. 348, 352, 884 P.2d 234, 238 (App. 1994) (in addressing best interests analysis, ADES "need not show that it has a specific adoption plan before terminating a parent's rights; [A]DES must show that the children are adoptable").

¶10 In this case, the juvenile court's findings of fact are sufficiently detailed to satisfy Rule 66(F)(2)(a). The issues in this case were simple and straightforward. Mother failed to appear at the severance trial, and none of the grounds for severance - including whether severance was in the best interests of the children - were contested by Mother.¹ In this context, the juvenile court's findings that adoption would

¹ We note that based on Mother's failure to appear at the severance trial, the State's allegation in its petition that severance would

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provide the children with permanency and stability, that “termination would further the plan of adoption,” and that the children lived with a relative with whom they had a significant relationship were sufficiently detailed and supported by the record. Accordingly, we find no abuse of discretion.

Conclusion

¶11 Because the juvenile court did not abuse its discretion, the order terminating Mother’s parental rights is affirmed.



Ruth A. Willingham · Clerk of the Court
FILED : mjt

benefit the children was deemed admitted by Mother. A.R.S. § 8-863(C);
Ariz. R.P. Juv. Ct. 64 (C).