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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

SANDI S., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, J.S., J.S., *Appellees*.

No. 1 CA-JV 15-0309
FILED 2-2-2016

Appeal from the Superior Court in Maricopa County
No. JD 38054
The Honorable Bruce R. Cohen, Judge

AFFIRMED

COUNSEL

Maricopa County Public Advocate, Mesa
By Suzanne W. Sanchez
Counsel for Appellant

Arizona Attorney General's Office, Phoenix
By JoAnn Falgout
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge Margaret H. Downie delivered the decision of the Court, in which Presiding Judge Andrew W. Gould and Judge John C. Gemmill joined.

D O W N I E, Judge:

¶1 Sandi S. (“Mother”) appeals the juvenile court’s order adjudicating her children, J.S. and J.S. (collectively, “the children”), dependent. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY¹

¶2 In December 2014, the children’s paternal grandmother and paternal step-grandfather (“Petitioners”) filed a petition alleging that the children were dependent as to both Mother and Father.² Petitioners alleged Mother was unable to protect the children from Father, suffered from substance abuse and psychological issues, and was unemployed and homeless.

¶3 The Department of Child Safety (“DCS”) investigated and determined that out-of-home placement was necessary “to ensure the safety and daily basic needs” of the children. After initially refusing services, Mother began participating in services recommended by DCS. During the dependency proceedings, Mother completed a course on strengthening the family, graduated from a Families First Program, and finished a substance abuse program. She also leased an apartment in her own name.

¶4 At the dependency adjudication hearing in August 2015, Petitioners and DCS presented evidence supporting a finding that, although Mother had made progress, she remained unable to protect the

¹ On appeal, we view the facts “in the light most favorable to upholding the juvenile court’s order.” *Ariz. Dep’t of Econ. Sec. v. Matthew L.*, 223 Ariz. 547, 549, ¶ 7 (App. 2010).

² Father declined services offered by DCS, and after he failed to appear for a scheduled hearing, the children were found dependent as to him. *See* Ariz. Rev. Stat. § 8-843(C) (admission of allegations waives dependency hearing rights). Father is not a party to this appeal.

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children from Father. The case manager testified that DCS's only concern about returning the children to Mother was her ability to protect them from "the potential harm that Father may pose to the family[.]" Mother presented no witnesses and did not testify.

¶5 Based on the evidence presented, the juvenile court found that Mother was in "a controlling relationship involving a person who poses a risk of harm for the children." The court concluded that, although Mother could provide a "minimally adequate home" for the children, she remained unable to protect them "from the environment that is created by Father."

DISCUSSION

¶6 Mother concedes that the evidence established her inability to protect the children from Father as of the time the dependency petition was filed. She argues, though, that there was no proof of her ongoing inability to do so as of the time of the dependency adjudication hearing. "We generally will not disturb a dependency adjudication unless no reasonable evidence supports it." *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, 235, ¶ 21 (App. 2005).

¶7 Although Mother could rightfully decline to testify at the dependency adjudication hearing, the court noted that it was left with "a number of unanswered questions." Specifically, it was unable to probe the extent of the ongoing relationship between Mother and Father. However, DCS and Petitioners presented substantial evidence that substantial contact was occurring.

¶8 Approximately two months after the dependency petition was filed, Mother became pregnant by Father with their third child. In March 2015, Mother and Father arrived together for a psychological evaluation. Additionally, the case manager testified that as recently as two months before the dependency adjudication hearing, she had seen Father's clothing in Mother's closet. Evidence also suggested Mother was employed with Father at the time of the hearing. Furthermore, less than two months before the hearing, Mother drafted a "safety plan," but did not list Father as a potential threat. Instead, she opined that if an intruder came to her home, she could call Father; likewise, if she were threatened at work, Father "would quickly dispatch any threat." And at a June 2015 meeting, Mother asked whether she had to name Father as a threat "because she does not believe he is." Accordingly, at the dependency adjudication hearing approximately six weeks later, the case manager expressed concern that

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Father, who had refused all services, would be “back in the picture as soon as [Mother] gets the kids back.” The case manager further opined that Mother had not made necessary “behavioral or thought process changes” regarding the threat Father poses.

¶9 The juvenile court found that Mother “remains enmeshed with Father” and has acted as an “apologist” for him “and a minimizer of the safety issues that he presents to her and potentially the children.” The court noted its concerns are not “insurmountable obstacles” and ruled that Mother must participate in “services that will increase the protections of the children in the event Father remains part of her life,” including counseling. The court also concluded that because Father “is not engaged in this process and is therefore not addressing the potential risks for the children, Mother’s continued ties to Father increase the risks to the children.”

CONCLUSION

¶10 Based on the evidence presented at the dependency adjudication hearing, a reasonable trier of fact could conclude that the children were dependent as to Mother at the time of the hearing. We therefore affirm the juvenile court’s dependency adjudication.



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