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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STEPHANIE C., *Appellant.*

v.

LOU ANNE C., ROBERT C., P.C., *Appellees.*

No. 1 CA-JV 16-0158
FILED 11-1-2016

Appeal from the Superior Court in Yavapai County
No. P1300SV201500027
The Honorable Anna C. Young, Judge

AFFIRMED

COUNSEL

Law Office of Florence M. Bruemmer, PC, Anthem
By Florence M. Bruemmer
Counsel for Appellant

Gregg R. Woodnick, PLLC, Phoenix
By Gregg R. Woodnick, Bradley A. TenBrook
Counsel for Appellee

MEMORANDUM DECISION

Presiding Judge Diane M. Johnsen delivered the decision of the Court, in which Judge Jon W. Thompson and Judge Thomas C. Kleinschmidt joined.¹

J O H N S E N, Judge:

¶1 Stephanie C. ("Mother") appeals from the superior court's order terminating her parental rights to her son. We affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 Mother and a man not a party to this appeal are the parents of a son born in 2012. The child has been in the exclusive care of Lou Anne and Robert Coleman ("Petitioners"), his paternal grandmother and her husband, since August 2014.

¶3 Mother, who was 32 years old at the time of the severance trial, first used methamphetamine when she was 18. She testified she used the drug for "less than a year" at that time. In 2011, Mother resumed her use of methamphetamine; this time, for six months. Mother testified she did not use again until 2014.

¶4 Mother and her son lived with Petitioners at their Arizona home from June 2013 until January 2014, when they moved to Pennsylvania to live with Mother's boyfriend. In May 2014, however, Mother asked Petitioners to "rescue" her from her boyfriend, and the same month, Mother and her son moved back to Petitioners' Arizona home. Upon her return, Petitioners began to suspect Mother was using drugs or alcohol, noting Mother's volatile behavior, soda cans filled with alcohol in her living area and a previously unopened bottle of alcohol in the home that was suddenly half empty.

¶5 Petitioners filed for temporary custody of the child in June 2014. The court granted their request in August 2014, and ordered Mother to start participating in random drug testing through TASC immediately. On October 8, 2014, the last time Mother saw her son, Petitioners received

¹ The Honorable Thomas C. Kleinschmidt, Retired Judge of the Court of Appeals, Division One, has been authorized to sit in this matter pursuant to Article VI, Section 3 of the Arizona Constitution.

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notice that Mother's most recent drug test was diluted and positive for amphetamines.

¶6 The superior court set a trial for May 2015 on Petitioners' request for *in loco parentis* designation, but Mother failed to appear. At the conclusion of the trial, the court granted Petitioners sole legal decision-making power with respect to the child and ordered that the child reside primarily with them (with limited parenting time granted to the child's father). The court also suspended Mother's parenting time due to "Mother's long-term drug abuse and lack of engagement with the child," and ordered Mother to complete random weekly drug tests for three consecutive months before it would revisit parenting time or legal decision-making.

¶7 In July 2015, police officers arrested Mother, who admitted she was dating a man who sold methamphetamine and supplied it to her. She pled guilty to possession of drug paraphernalia and shoplifting; the court sentenced her to probation and assigned her a probation officer who specialized in the seriously mentally ill.

¶8 Petitioners filed a petition to terminate Mother's parental rights in September 2015. At the severance trial in March 2016, Mother admitted to using methamphetamine from October 2014 to "sometime in late 2015." Although Mother claimed she had not used since that time, she did not provide the court with a single drug test in support of that fact, despite the May 2015 court order requiring drug testing.

¶9 The superior court issued an order terminating Mother's parental rights on grounds of abandonment and substance abuse. We have jurisdiction of Mother's timely appeal pursuant to Article 6, Section 9, of the Arizona Constitution, Arizona Revised Statutes ("A.R.S.") sections 8-235(A) (2016), 12-2101 (2016) and Arizona Rule of Procedure for the Juvenile Court 103(A).²

DISCUSSION

¶10 The right to custody of one's child is fundamental but not absolute. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 248, ¶¶ 11-12 (2000). The superior court may terminate a parent-child relationship upon clear and convincing evidence of at least one of the statutory grounds set out in A.R.S. § 8-533(B) (2016). *Michael J.*, 196 Ariz. at 249, ¶ 12. Additionally, the court must find by a preponderance of the evidence that

² Absent material revision after the relevant date, we cite a statute's current version.

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termination is in the child's best interests. *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). We review a termination order for an abuse of discretion. *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 47, ¶ 8 (App. 2004). Because the superior court is in the best position to "weigh the evidence, observe the parties, judge the credibility of witnesses, and make appropriate findings," we will accept its findings of fact unless no reasonable evidence supports them. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002).

¶11 Pursuant to A.R.S. § 8-533(B)(3), the court may terminate the rights of a parent who is "unable to discharge parental responsibilities because of . . . a history of chronic abuse of dangerous drugs, controlled substances or alcohol and [when] there are reasonable grounds to believe that the condition will continue for a prolonged indeterminate period."

¶12 Mother contends Petitioners failed to offer clear and convincing evidence at the March 2016 trial that her drug use was ongoing or would continue for a prolonged indeterminate period. Instead, Mother argues, the evidence established that she did not suffer from an on-going substance abuse problem. Despite Mother's arguments, reasonable evidence supported the superior court's finding that she has a history of chronic drug abuse and that it would continue for a prolonged indeterminate period. Mother admitted she used methamphetamine for extended lengths of time since she turned 18 years old. She admitted that, as recently as July 2015, she was dating a man who sold methamphetamine and supplied it to her. She also admitted she used methamphetamine between October 2014 and "sometime" late in 2015. Moreover, despite ample motivation to submit clean drug tests to the court so that she could see her child, Mother failed to provide a single one. Under these circumstances, the court could have inferred that she was not clean at the time of trial.

¶13 Accordingly, Mother's extended and recent history of drug abuse, as well as her inability to show that she could abstain from drug use in order to see her son, support the court's finding of the statutory ground for severance based on clear and convincing evidence. *See Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 379, ¶ 29 (App. 2010). Because we affirm the court's termination order based on chronic drug abuse, we need not consider its order of termination based on abandonment.

¶14 Mother also argues that termination of her parental rights was not necessary, and therefore not in the child's best interests, because the boy "was already in a safe, stable, and loving home with Petitioners who had

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sole legal decision-making authority." A best-interests finding may be supported by evidence of an affirmative benefit or a detriment to the child if the relationship were to continue. *Jennifer B. v. Ariz. Dep't of Econ. Sec.*, 189 Ariz. 553, 557 (App. 1997). Whether severance is in a child's best interests is a question of fact, and we view the evidence and draw all reasonable inferences from the evidence in favor of supporting the superior court's findings. *Jesus M.*, 203 Ariz. at 282, ¶ 13.

¶15 Sufficient evidence supported the superior court's best-interest finding. An adoption specialist who authored the social study completed pursuant to A.R.S. § 8-536 (2016) testified severance was in the child's best interests. Similarly, citing Mother's "history of vacillating from such extremes, doing really well to, again, using [methamphetamine]," the child's guardian ad litem testified severance was in the child's best interests because it would provide "permanent closure" and remove any concern that "[Mother] might . . . have a brief period of sobriety and put him in harm's way."

CONCLUSION

¶16 For the reasons stated above, we affirm the superior court's order terminating Mother's rights to her son.



AMY M. WOOD • Clerk of the Court
FILED: AA