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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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SHAUNA D., *Appellant*,

*v.*

DEPARTMENT OF CHILD SAFETY, A.D., *Appellees*.

No. 1 CA-JV 16-0307  
FILED 1-12-2017

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Appeal from the Superior Court in Yavapai County  
No. P1300JD201500063  
The Honorable Anna C. Young, Judge

**AFFIRMED**

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COUNSEL

Robert D. Rosanelli, Phoenix  
*Counsel for Appellant*

Arizona Attorney General's Office, Mesa  
By Ashlee N. Hoffman  
*Counsel for Appellees*

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**MEMORANDUM DECISION**

Judge Randall M. Howe delivered the decision of the Court, in which  
Presiding Judge Kenton D. Jones and Judge Donn Kessler joined.

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HOWE, Judge:

¶1 Shauna D. (“Mother”) appeals the juvenile court’s order terminating her parental rights to her minor child, A.D., on the grounds of chronic substance abuse, neglect, and time in out-of-home placement for six months. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 In December 2014, while pregnant and living in Texas, Mother was involved in a car accident while she had methamphetamine in her system. The accident caused Mother to give birth to A.D. prematurely at 31 weeks. Both Mother and A.D. tested positive for methamphetamine and were required to remain in the hospital for four weeks. Because of the positive drug tests, the State of Texas charged Mother with child endangerment, and the hospital contacted the Texas Department of Family and Protective Services (“DFPS”). Mother admitted to DFPS that she last used methamphetamine during her last trimester. DFPS opened a case against Mother but closed it after A.D.’s maternal grandmother took temporary guardianship of A.D. The maternal grandmother then moved A.D. and Mother to Arizona to reside with her.

¶3 The Arizona Department of Child Safety (“Department”) received a report from DFPS that A.D.’s meconium tested positive for methamphetamine at birth and sent an investigator to the maternal grandmother’s residence. Mother told the investigator that the reason she and A.D. had tested positive in the hospital was from methamphetamine exposure. The Department referred Mother to drug testing and substance abuse services. Although Mother denied using any drugs, she tested positive for methamphetamine.

¶4 In April 2015, Mother went to Texas and returned to Arizona with her boyfriend – A.D.’s alleged father. After returning, Mother, A.D., and Mother’s boyfriend all moved in with Mother’s former mother-in-law. Mother agreed to random drug testing twice a week but participated only sporadically. Two months later, Mother tested positive for methamphetamine after missing the previous three weeks of drug testing. Mother denied that this positive test was due to drugs and told the Department that her inhaler likely caused the positive test result. The Department requested specialized testing on the sample and the lab determined that it could not have been caused by an inhaler. Because of the positive test, the Department took temporary custody of A.D. and placed her in Mother’s former mother-in-law’s care. After Mother agreed to attend

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Narcotic's Anonymous meetings and a parenting class, the Department ended the temporary custody. Both Mother and A.D. continued to live with Mother's former mother-in-law.

¶5 About a month later, a concerned family member contacted the Department and reported that Mother was "still using methamphetamine, playing games with [the Department], and snowing everyone," and that Mother used work as an excuse for missing drug tests. In response, the Department confronted Mother about the allegations and requested that she submit to a drug test. Mother admitted that the test would be positive because she had used methamphetamine about four times in the previous month. In August 2015, the Department petitioned for dependency, alleging that A.D. was dependent based on Mother's chronic substance abuse under A.R.S. § 8-533(B)(3), neglect under A.R.S. § 8-533(B)(2), and time in out-of-home placement for six months under A.R.S. § 8-533(B)(8)(b). Mother denied the allegations in the petition but submitted the dependency issue to the juvenile court, which found A.D. dependent. The Department provided Mother with reunification services, including supervised visitation, urinalysis testing, and referrals for a substance abuse assessment, substance abuse education, family treatment court, parenting education, family involvement center, and individual counseling.

¶6 Because A.D. was still placed with Mother's former mother-in-law, the Department allowed Mother to live there as long as she complied with drug testing. Mother missed a drug test, however, and the Department required her to move from the placement. A.D. remained there.

¶7 Over the next six months, Mother missed 40 out of 60 drug tests and had four positive drug tests. Mother admitted during her intake with the West Yavapai Guidance Clinic that she first began experimenting with methamphetamine at 15 years old. Although Mother completed two different substance abuse services in October 2015, that month she tested positive for methamphetamine and missed four drug tests. A Department employee observed that Mother had a small clear bag that had a piece of foil and white residue inside. Mother stated that she forgot she had the bag and denied that she was currently using. The following month, Mother missed two drug tests and tested positive for methamphetamine and amphetamines. Mother again denied that the positive result was due to drug use, but instead to taking Sudafed. Additional testing, however, confirmed that the test was positive from methamphetamine.

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¶8 Meanwhile, Mother traveled to Texas several times for hearings on the endangerment charge from A.D.'s birth. Mother requested that A.D.'s dependency case be transferred to Texas. The Department told Mother that she would need to provide a Texas address to have the services transferred, but Mother failed to provide one for several months. In February 2016, Mother pled guilty to the endangerment charge and was required to stay in Texas as a requirement of her probation. Having made no progress to transfer the case to Texas or to participate in services, the Department moved to terminate Mother's parental rights in March 2016.

¶9 At the June 2016 contested severance hearing, the case manager testified that Mother sporadically participated in drug testing since the dependency began in August 2015. She believed that Mother's substance abuse negatively affected Mother's decision-making and that Mother's substance abuse was still continuing. Regarding A.D., the case manager testified that A.D. was adoptable and would be in a safe, stable, and drug-free environment. She believed that A.D. would benefit from severance because A.D. would remain with the placement she has been with for the majority of her life. She also stated that the current placement is meeting all of A.D.'s needs and is considered an adoptive placement.

¶10 Mother testified that she started using methamphetamine in July of 2014 and "partied pretty hard" before A.D. was born. Mother further testified that she found out she was pregnant with A.D. in October 2014 and used methamphetamine the day before she got in the December 2014 car accident—two days before A.D.'s premature birth. Mother stated that when she was forced to leave her former mother-in-law's residence she was determined not to fail. But she also testified that she used methamphetamine in October while receiving services in intensive outpatient treatment, and that she relapsed again in November even after taking a course on relapse skills. Mother also admitted that when she was on methamphetamine around her family she would blame her demeanor on having too many drinks. Finally, Mother testified that she had difficulty complying with this dependency because she had to travel between Texas and Arizona to handle legal issues in both states. Mother stated that she knew traveling to Texas would naturally mean that she would not be compliant in her case plan.

¶11 The juvenile court terminated Mother's parental rights to A.D. for chronic substance abuse under A.R.S. § 8-533(B)(3), neglect under A.R.S. § 8-533(B)(2), and six months in out-of-home placement under A.R.S. § 8-533(B)(8)(b). The court also found that termination was in the child's

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best interests because A.D. is adoptable and termination would provide A.D. with permanency and stability. Mother timely appealed.

### DISCUSSION

¶12 Mother argues that insufficient evidence supports the juvenile court's order terminating her parental rights on any of the three grounds. We review a juvenile court's termination order for an abuse of discretion. *E.R. v. Dep't of Child Safety*, 237 Ariz. 56, 58 ¶ 9, 344 P.3d 842, 844 (App. 2015). "The juvenile court, as the trier of fact in a termination proceeding, is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and make appropriate findings." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280 ¶ 4, 52 P.3d 203, 205 (App. 2002). We accept the juvenile court's factual findings unless no reasonable evidence supports them and will affirm a severance order unless clearly erroneous. *Bobby G. v. Ariz. Dep't of Econ. Sec.*, 219 Ariz. 506, 508 ¶ 1, 200 P.3d 1003, 1005 (App. 2008). Further, we will affirm a termination order if any statutory ground is proved and the termination is in the child's best interests. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 376 ¶ 14, 231 P.3d 377, 380 (App. 2010). Because sufficient evidence supports the juvenile court's order terminating Mother's parental rights for chronic substance abuse and termination is in A.D.'s best interests, we affirm.

#### 1. Statutory Ground for Termination

¶13 To terminate parental rights, the juvenile court must find by clear and convincing evidence the existence of at least one of the statutory grounds for termination, and find by a preponderance of the evidence that termination is in the child's best interests. See A.R.S. §§ 8-533(B), -537(B); *Jennifer S. v. Dep't of Child Safety*, 240 Ariz. 283, 287 ¶ 15, 378 P.3d 725, 729 (App. 2016). As relevant here, the juvenile court may terminate parental rights if (1) the parent has a history of chronic substance abuse; (2) the parent is unable to discharge her parental responsibilities because of her chronic substance abuse; and (3) reasonable grounds exist to believe that the abuse will continue for a prolonged and indeterminate time. A.R.S. § 8-533(B)(3); *Raymond F.*, 224 Ariz. at 377 ¶ 15, 231 P.3d at 381.

¶14 Sufficient evidence supports the juvenile court's chronic substance abuse finding. Mother first began experimenting with methamphetamine when she was 15 years old. Mother admitted to using methamphetamine while pregnant with A.D. and had used the drug before getting into the car accident in December 2014. Mother continued to use methamphetamine into the following year, leading the Department to

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briefly take temporary custody of A.D. This was not enough to keep Mother sober, however, because she admitted that she used methamphetamine four times in August 2015. Additionally, Mother admitted that she would hide being on methamphetamine when she was around her family by blaming it on having too many drinks. Although Mother was enrolled in and completed substance abuse services, Mother continued to test positive over the next several months. Mother counters that this is a pattern of an occasional drug abuser, but even sporadic drug usage is reasonable evidence that she has a history of chronic substance abuse. *See Raymond F.*, 224 Ariz. at 377 ¶ 16, 231 P.3d at 381 (finding that drug use need not be constant to be considered chronic). Further, Mother did not take the drug testing seriously. Mother often denied that positive drug tests were due to methamphetamine and missed 40 out of 60 drug tests between August 2015 and February 2016.

¶15 Additionally, sufficient evidence exists to support the juvenile court's finding that Mother could not discharge her parental responsibilities. Parental responsibilities "refer to those duties or obligations which a parent has with regard to [her] child." *Matter of Appeal in Maricopa Cty. Juv. Action No. JS-5209 & No. JS-4963*, 143 Ariz. 178, 185, 692 P.2d 1027, 1034 (App. 1984). Those responsibilities include, among other things, protecting her child and providing good physical care and emotional security. *Id.* The record shows that Mother used methamphetamine even after finding out that she was pregnant with A.D. Mother had methamphetamine in her system when she was involved in the car accident that led to A.D. being born at 31 weeks. This required A.D. to spend the first four weeks of her life in a hospital. Even after the Department got involved with the family, Mother was allowed to live with A.D. and have unlimited visitation. Mother was warned, however, that she would have to leave A.D. and the placement's residence if she missed any drug tests. Her subsequent failure to comply with testing was the sole reason that she was forced to move. Additionally, Mother's traveling to and from Texas during the course of the dependency deprived A.D. of physical care and support.

¶16 Finally, reasonable grounds existed to believe that Mother's substance abuse would continue for a prolonged and indeterminate period. To determine whether Mother's chronic substance abuse would continue for an indeterminate period, the juvenile court may consider prior substance abuse. *See Jennifer S.*, 240 Ariz. at 288 ¶ 20, 378 P.3d at 730. This evidence includes the length and frequency of Mother's substance abuse. *Id.* Here, Mother admitted having "partied hard" while pregnant with A.D. and having used methamphetamine even after knowing that she was

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pregnant. Mother also knew that, as part of her case plan, she was required to comply with drug testing. And yet Mother used methamphetamine on four different occasions the month the Department initiated the dependency action. A couple months later, Mother tested positive for methamphetamine in October and November. Further, a Department employee saw Mother with a small bag that contained foil and a white substance that Mother had claimed she forgot she had. Because Mother could not maintain sobriety and missed the majority of her drug tests, reasonable grounds exist to believe this abuse will continue for a prolonged period. Accordingly, sufficient evidence supports the juvenile court's order terminating Mother's parental rights to A.D. on the ground of chronic substance abuse and we need not address the other grounds. *See Jesus M.*, 203 Ariz. at 280 ¶ 3, 53 P.3d at 205.

## 2. The Child's Best Interests

¶17 Mother does not discuss the best interests finding but the record shows that termination of Mother's parental rights was in A.D.'s best interests. Termination of parental rights is in a child's best interests if the child will benefit from the termination or will be harmed if the relationship continues. *Shawanee S. v. Ariz. Dep't of Econ. Sec.*, 234 Ariz. 174, 179 ¶ 20, 319 P.3d 236, 241 (App. 2014). In determining whether the child will benefit, relevant factors to consider include whether the current placement is meeting the child's needs, an adoption plan is in place, and if the child is adoptable. *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 3-4 ¶ 12, 365 P.3d 353, 355-56 (2016).

¶18 Here, the record supports the juvenile court's finding that termination was in A.D.'s best interests. A.D. is currently with an adoptive placement and has been there the majority of her life. The case manager testified that current placement is able to meet all of A.D.'s needs and that A.D. is adoptable. Thus, the termination of Mother's parental rights was in A.D.'s best interests.

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**CONCLUSION**

¶19 For the foregoing reasons, we affirm.



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