

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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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ALEJANDRA S., *Appellant*,

*v.*

DEPARTMENT OF CHILD SAFETY, L.D., L.S., *Appellees*.

No. 1 CA-JV 16-0418  
FILED 6-13-2017

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Appeal from the Superior Court in Maricopa County  
No. JS518077  
The Honorable Karen L. O'Connor, Judge

**AFFIRMED**

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COUNSEL

Law Office of H. Clark Jones LLC, Mesa  
By Clark Jones  
*Counsel for Appellant*

Arizona Attorney General's Office, Mesa  
By Amanda L. Adams  
*Counsel for Appellee Department of Child Safety*

**MEMORANDUM DECISION**

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge Peter B. Swann and Judge Donn Kessler joined.

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**C A T T A N I**, Judge:

¶1 Alejandra S. (“Mother”) appeals the superior court’s order terminating her parental rights to her two sons, L.D. and L.S. For reasons that follow, we affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 Mother and Lee D. (“Father”) are the biological parents of L.D., born in March 2015, and L.S., born in May 2016.<sup>1</sup> Both L.D. and Mother tested positive for methamphetamine at his birth, and after Mother continued to test positive over the next month, the Department of Child Safety (“DCS”) took L.D. into care.

¶3 DCS offered Mother services including drug testing and treatment to address her substance abuse issues. But Mother consistently failed to follow through with substance abuse treatment over the next 18 months. She completed only three of over thirty required urinalysis tests, and she tested positive for methamphetamine in two of the three completed tests. Over a year after L.D.’s removal, Mother again tested positive for methamphetamine in a hair follicle test.

¶4 DCS referred Mother for substance abuse treatment twice. During the first referral she completed only an intake evaluation, and she did not participate in the second referral at all; both were closed due to non-participation. On other occasions, Mother informed DCS that she was starting two different inpatient treatment programs, but she failed to participate in or complete either one.

¶5 In April 2016, DCS moved to terminate Mother’s parental rights to L.D. based on chronic substance abuse and nine months’ time in

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<sup>1</sup> Father’s parental rights to both children have also been terminated, and he is not a party to this appeal.

ALEJANDRA S. v. DCS, et al.  
Decision of the Court

care. *See* Ariz. Rev. Stat. (“A.R.S.”) § 8-533(B)(3), (8)(a).<sup>2</sup> Then, in May 2016, Mother tested positive for methamphetamine at L.S.’s birth, and DCS took him into care and petitioned for severance based on Mother’s substance abuse. *See* A.R.S. § 8-533(B)(3).

¶6 After an evidentiary hearing, the superior court found severance was warranted on the grounds alleged. The court also found that severance was in the children’s best interests because, given her inability to maintain sobriety, Mother could not meet the children’s daily needs, and severance provided the children with a stable and permanent home and advanced the plan of adoption.

¶7 Mother timely appealed. We have jurisdiction under A.R.S. § 8-235(A).

**DISCUSSION**

¶8 To terminate a parent’s rights, the superior court must find at least one statutory severance ground by clear and convincing evidence and further find by a preponderance of the evidence that termination is in the best interests of the child. *See* A.R.S. § 8-533(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). Because the superior court is in the best position to weigh the evidence, we will uphold its factual findings “unless no reasonable evidence supports those findings” and will affirm unless the order is clearly erroneous. *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002).

¶9 Mother does not contest the superior court’s finding of grounds for severance, and instead challenges the sufficiency of the evidence underlying the best interests determination. Specifically, she argues that termination would be harmful to both children because their current placement is physically abusive.

¶10 Termination is in a child’s best interests if the child would be harmed by the continuation of the parent-child relationship or benefit from severance. *Mary Lou C. v. Ariz. Dep’t of Econ. Sec.*, 207 Ariz. 43, 50, ¶ 19 (App. 2004). Evidence of a current adoptive plan or that the child is adoptable supports a best interests finding, as does evidence that an existing placement is meeting the child’s needs. *Id.*; *Jesus M.*, 203 Ariz. at 282, ¶ 14.

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<sup>2</sup> Absent material revisions after the relevant date, we cite a statute’s current version.

ALEJANDRA S. v. DCS, et al.  
Decision of the Court

¶11 Mother testified that the current placement had physically abused other children in the past, and she argues that this placement would therefore harm L.D. and L.S. But DCS investigated the alleged abuse and found those claims to be unsubstantiated. The accusations arose only after DCS moved for severance, and there were no prior reports of abuse. Although Mother urges that another placement would better meet the children's needs, the court does not weigh alternative placement possibilities in assessing best interests. *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 5 (App. 1998).

¶12 Moreover, the DCS case manager testified that the placement met both L.D. and L.S.'s physical, social, educational, medical, psychological, and emotional needs, and indicated that the placement was potentially an adoptive home. The evidence thus supports the court's finding that severance would afford the children a stable and drug-free home, as well as a possible adoption. Accordingly, the court did not err by finding that severance was in L.D. and L.S.'s best interests.

### CONCLUSION

¶13 We affirm the superior court's order terminating Mother's parental rights as to L.D. and L.S.



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