

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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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MONICA T., *Appellant*,

*v.*

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

No. 1 CA-JV 17-0128  
FILED 7-6-2017

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Appeal from the Superior Court in Maricopa County  
No. JD27189  
The Honorable Daniel G. Martin, Judge

**AFFIRMED**

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COUNSEL

Thomas A. Vierling, Phoenix  
*Counsel for Appellant*

Arizona Attorney General's Office, Tucson  
By Cathleen E. Fuller  
*Counsel for Appellee*

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**MEMORANDUM DECISION**

Judge Samuel A. Thumma delivered the decision of the Court, in which  
Presiding Judge Michael J. Brown and Judge Randall M. Howe joined.

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**T H U M M A**, Judge:

¶1 Monica T. (Mother) challenges the superior court's order finding termination of her parental rights was in the best interests of her daughter A.T. Because Mother has shown no error, the order is affirmed.

**FACTS<sup>1</sup> AND PROCEDURAL HISTORY**

¶2 A.T. was born in October 2005, and has been in care for nearly half of her life. Most recently, the Department of Child Safety (DCS) took A.T. into care in October 2013, alleging neglect based on Mother's mental illness and substance abuse as well as domestic violence between Mother and A.T.'s father, who is not a party to this appeal. In March 2014, A.T. was found dependent as to Mother and the court adopted a family reunification case plan with appropriate services.

¶3 In August 2016, the court changed the case plan to severance and adoption. DCS' motion to terminate alleged substance abuse and 15-months time-in-care and that termination was in the best interests of A.T. See A.R.S. §§ 8-533(B)(3), (8)(c) (2017).<sup>2</sup> In a detailed minute entry following a February 2017 adjudication, the superior court found DCS proved the statutory grounds by clear and convincing evidence and, by a preponderance of the evidence, that termination was in A.T.'s best interests. This court has jurisdiction over Mother's timely appeal pursuant to Article 6, Section, 9, of the Arizona Constitution, A.R.S. §§ 8-235(A), 12-2101(A) and 12-120.21(A) and Ariz. R.P. Juv. Ct. 103-04.

**DISCUSSION**

¶4 As applicable here, to terminate parental rights, a court must find by clear and convincing evidence that at least one statutory ground articulated in A.R.S. § 8-533(B) has been proven and must find by a preponderance of the evidence that termination is in the best interests of the child. See *Kent K. v. Bobby M.*, 210 Ariz. 279, 288 ¶ 41 (2005); *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249 ¶ 12 (2000). Because the superior court "is in the best position to weigh the evidence, observe the parties, judge the

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<sup>1</sup> This court views the evidence in a light most favorable to sustaining the superior court's findings. See *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, 207 ¶ 2 (App. 2008).

<sup>2</sup> Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

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credibility of witnesses, and resolve disputed facts,” this court will affirm an order terminating parental rights as long as it is supported by reasonable evidence. *Jordan C. v. Ariz. Dep’t of Econ. Sec.*, 223 Ariz. 86, 93 ¶ 18 (App. 2009) (citation omitted).

¶5 Mother does not challenge the superior courts findings on the two statutory grounds for severance. Instead, she argues that the court abused its discretion in finding that termination was in A.T.’s best interests.

¶6 Mother argues that A.T. has an independent education plan and behavioral issues and that no adoptive placement has been identified. Mother also argues A.T. is 11 years old and, if termination was granted, she would have to consent to any adoption after she turns 12, and there “is not sufficient evidence to establish that the child would consent.” Mother also argues the superior court did not properly consider that there “there exists a relationship between Mother and A.T. that is worth saving.”

¶7 As Mother notes, the best interests assessment required the superior court to assess “how the child would benefit from a severance or be harmed by the continuation of the relationship.” *Mary Lou C. v. Ariz. Dep’t of Econ. Sec.*, 207 Ariz. 43, 50 ¶ 19 (App. 2004) (citation omitted). As the court noted here, best interests may be shown if the child is adoptable or that the existing placement is meeting the needs of the child. *Id.*

¶8 The DCS case manager testified that termination of parental rights was in A.T.’s best interests. Termination, she explained, would give A.T. “permanency and stability that she needs as a child.” A.T. is adoptable and “is a good kid. She does not have any special needs. She does not have any behavioral issues. She is a delightful kid who we will not have any problem finding an adoptive home for.” The case manager also testified that several families had expressed interest in adopting A.T. if she became available for adoption.

¶9 Without objection, the DCS case manager also testified that, a week before the trial, she had asked A.T. about whether she wanted to be adopted and A.T. answered she “is ready and willing to be adopted and find a forever home.” Although Mother argues A.T. may change her mind regarding adoption, citing to an older sibling’s decisions, she has not shown the superior court could not rely on this testimony. *Jordan C.*, 223 Ariz. at 93 ¶ 18.

¶10 The superior court considered Mother’s testimony that she had made mistakes resulting in A.T. being taken into care and that she loves A.T. wants what is best for her. Moreover, it is undisputed that Mother and

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A.T. have communicated during the case. As noted recently by this court, however,

[t]he existence and effect of a bonded relationship between a biological parent and a child, although a factor to consider, is not dispositive in addressing best interests. Even in the face of such a bond, the juvenile court is required to evaluate the totality of circumstances and determine whether severance is in the best interests of the children.

*Dominique M. v. Dep't of Child Safety*, 240 Ariz. 96, 98-99 ¶ 12 (App. 2016) (citations omitted). Here, the superior court considered the totality of the circumstances in finding that termination was in A.T.'s best interests; reasonable evidence in the trial record supports that finding.

¶11 Finally, the DCS case manager testified that A.T. would be harmed if severance was not granted. She testified that denial of severance would delay permanency and put A.T. "at risk of returning home with Mother, who continues to abuse substances." On this record, Mother has not shown that the superior court lacked sufficient evidence to conclude that severance was in A.T.'s best interests. *See Mary Lou C.*, 207 Ariz. at 50 ¶ 21.

### CONCLUSION

¶12 The superior court's order terminating Mother's parental rights to A.T. is affirmed.



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