

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 06-03-2010
PHILIP G. URRY, CLERK
BY: GH

RHEA E.,) 1 CA-JV 09-0189
)
Appellant,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
)
ARIZONA DEPARTMENT OF ECONOMIC) (Not for Publication -
SECURITY, ANTHONY E., EDUARDO Q.,) Ariz. R. P. Juv. Ct.
GABRIEL Q., ANGEL Q., SALVADOR Q.,) 103(G); ARCAP 28)
)
Appellees.)
_____)

Appeal from the Superior Court of Maricopa County

Cause No. JD 507008

The Honorable Mark F. Aceto, Judge

AFFIRMED

Terry Goddard, Attorney General Mesa
By Amanda L. Holguin, Assistant Attorney General
Attorneys for Appellee
Arizona Department of Economic Security

Gates Law Firm, L.L.C. Phoenix
By S. Marie Gates
Attorney for Appellant

T H O M P S O N, Judge

¶1 Rhea E. (mother) appeals the termination of her parental rights to Anthony E., Eduardo Q., Gabriel Q., Angel Q., and Salvador Q. On appeal, mother claims the court erred in delegating

severance and best interest findings to the state and asserts severance of her parental rights is not in the best interest of the children. For the following reasons, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶12 Mother has five children, Anthony E., Eduardo Q., Gabriel Q., Angel Q., and Salvador Q. The Arizona Department of Economic Security (ADES) filed a dependency petition with respect to all five children on November 6, 2007. On April 2, 2009, the Guardian Ad Litem (GAL) for the children filed a Motion for Termination of Parent-Child Relationship.

¶13 The court held a two-day contested severance hearing on August 21, 2009 and September 11, 2009. Two psychologists, a clinical liaison, and a CPS case manager testified. Mother testified and was represented by counsel. At the conclusion of the hearing, the court took the matter under advisement.

¶14 On September 15, 2009, the court granted the GAL's motion to terminate mother's parental rights. The court noted that its decision "did not hinge on admission of exhibits 26, 32, and 36-39" and that the court "would have reached the same result whether or not these exhibits had been admitted."¹ The court directed ADES to submit a proposed order.

¶15 On October 16, 2009, the court entered its Findings of

¹ The court was referring to the exhibits that were admitted over mother's objection.

Fact, Conclusions of Law, and Order. The court stated it had "heard, considered and weighed all of the testimony, admitted exhibits, and arguments of counsel" from the severance hearing. The court found ADES had proven the grounds for termination of the parent-child relationship by clear and convincing evidence. Mother's parental rights were terminated on three separate grounds, under Arizona Revised Statute (A.R.S.) § 8-533(B)(2), (B)(3), and (B)(8)(c) (Supp. 2008). The court also concluded that ADES had proven, by a preponderance of the evidence, that termination of the parent-child relationship between the children and mother was in the children's best interest.

¶6 Mother filed a timely notice of appeal. We have jurisdiction under A.R.S. §§ 8-235 (2007), 12-120.21(A)(1) (2003), and -2101(B) (2003).

DISCUSSION

¶7 In reviewing a juvenile court's order terminating parental rights, we will not reweigh the evidence. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 282, ¶ 12, 53 P.3d 203, 207 (App. 2002) (citation omitted). We will not disturb the court's order "unless its factual findings are clearly erroneous, that is, unless there is no reasonable evidence to support them." *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, 982 P.2d 1290, 1291 (App. 1998) (citing *Maricopa County Juvenile Action No. JS-4374*, 137 Ariz. 19, 667 P.2d 1345 (App. 1983)). We review the

juvenile court's severance order for abuse of discretion. *Matter of Pima County Juvenile Action No. S-2460*, 162 Ariz. 156, 158-59, 781 P.2d 634, 636-37 (App. 1989).

¶18 Mother claims the juvenile court erred by delegating "various findings regarding severance and best interest" to ADES. Mother asserts the court "did not specifically rule that [ADES] established the alleged grounds [of termination] by clear and convincing evidence," but rather, that the court "delegated its required judicial findings to the state by ordering the state to submit a proposed order of findings and conclusions."

¶19 Rule 66(F) of the Arizona Rules of Procedure for Juvenile Court (Ariz. R. P. Juv. Ct.) requires that "[a]ll findings and orders [relating to termination of parental rights] shall be in the form of a signed order or set forth in a signed minute entry." Ariz. R. P. Juv. Ct. 66(F). If the moving party meets its burden of proof, the court is required to make "specific findings of fact in support of the termination of parental rights" and grant the motion for termination. Ariz. R. P. Juv. Ct. 66(F)(2)(a).

¶10 Here, the court entered a signed order with the findings as required by Rule 66(F). ADES merely submitted a proposed order; the court was under no obligation to adopt ADES' proposed findings. Accordingly, we reject mother's argument that the court improperly delegated the findings to the state.

¶11 Mother also contends she was "deprived of a judicial best

interest analysis" and that severance is not in the children's best interest. Our duty is not to conduct a best interest analysis, but rather to determine whether the evidence reasonably supports the juvenile court's factual findings. *Audra T.*, 194 Ariz. at 377, 982 P.2d at 1291. In this case, the court was presented with evidence that mother was unsuccessful in completing substance abuse treatment and continued to test positive for opiates. The court also heard expert testimony that the three older children had suffered from post-traumatic stress disorder as a result of the trauma they had experienced in mother's home, including physical abuse. Finally, ADES presented evidence that the children were adoptable and that the children's placements were meeting their special needs. We find the juvenile court's order that severance was in the best interest of the children was supported by the evidence.

CONCLUSION

¶12 For the foregoing reasons, we affirm.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

PATRICIA A. OROZCO, Presiding Judge

/s/

DIANE M. JOHNSEN, Judge